



SPECIALIST PROSECUTOR'S OFFICE
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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

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Language: English

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Public Redacted Version of 'Prosecution reply to response F02422'

Specialist Prosecutor's Office

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1. The Response¹ to the Request² is notable in that it makes no argument challenging that the Video³ constitutes recently uncovered footage of Kadri VESELI and Rexhep SELIMI. The SPO replies only to the various misrepresentations in the Response as to the Video, [REDACTED], and admitted VESELI Defence exhibit 2D00022.

2. That 2D00022 overlaps with the Video is conceded,⁴ yet the Defence hypocritically challenges the relevance of the latter based on arguments equally applicable to the former.⁵ 2D00022 is clearly edited, with multiple pieces of footage combined together.⁶ No witness in this trial explained who filmed this footage,⁷ W04410 included.⁸ In contrast to the *Nacionale* article cited in the Request,⁹ the VESELI Defence gave no information as to the provenance of its footage.¹⁰ The only information provided by the VESELI Defence as to what 2D00022 depicts comes from its description in Legal Workflow, which did not even provide the correct date.¹¹ Yet none of these issues stopped the VESELI Defence from considering 2D00022 as

¹ Joint Defence Response to Prosecution request to amend the Exhibit List and admit video following W04410's testimony, KSC-BC-2020-06/F02422, 3 July 2024, Confidential ('Response').

² Prosecution request to amend the Exhibit List and admit video following W04410's testimony, KSC-BC-2020-06/F02399, 21 June 2024, Confidential ('Request') (public redacted version notified same day).

³ 121386-01 ('Video').

⁴ Response, KSC-BC-2020-06/F02422, para.4.

⁵ *See especially* Response, KSC-BC-2020-06/F02422, para.12 ('leave to amend the Exhibit List should not be granted with respect to items that are obviously irrelevant and would, therefore, ultimately be denied admission into evidence').

⁶ *But see* Response, KSC-BC-2020-06/F02422, para.4. That 2D00022 is edited is evident from the cuts in the footage around timestamps 00:44 and 02:25. Other collated videos have been admitted in this trial without any objection. *E.g.* P01103; Transcript of Hearing, 2 April 2024, T.14148.

⁷ *But see* Response, KSC-BC-2020-06/F02422, paras 6, 13.

⁸ *Conceded in* Response, KSC-BC-2020-06/F02422, para.14, *citing* Transcript of Hearing, 5 June 2024, T.16822-16823.

⁹ Request, KSC-BC-2020-06/F02399, para.1, n.4.

¹⁰ *But see* Response, KSC-BC-2020-06/F02422, paras 16-17.

¹¹ The description indicates that 2D00022 is a 'Video depicting Kosovo Albanian refugees on 10 April 1999 from the Baice valley towards Vucak', even though the speaker in the video says it was filmed on 8 April. The 'Originator' field in Legal Workflow is left blank.

sufficiently authentic to tender as an exhibit in this trial, and no other Defence team objected to its admission.

3. Defence attempts to present the footage of Rexhep SELIMI in the Video as completely disconnected from 2D00022 misstate the evidence. 2D00022 depicts a convoy of civilians and wounded being escorted by Kadri VESELI on 8 April 1999. The part of 2D00022 which overlaps with the Video starts with civilians walking down a dirt road, and ends with the camera panning from Kadri VESELI standing on this road to a civilian walking towards him.¹² From the moment the overlapping footage ends, the Video then shows civilians walking down a dirt road and Ferat SHALA engaging with a group of them by a tree.¹³ Kadri VESELI and other KLA soldiers can be seen walking behind this group.¹⁴ The camera finally moves to Kadri VESELI sitting down next to Rexhep SELIMI, who at one point appears to hand Kadri VESELI a satellite phone.¹⁵ Not only are Kadri VESELI's clothes the same across these scenes, but the weather, topography, and overall circumstances match throughout.¹⁶ The part of the Video with Rexhep SELIMI is manifestly linked to the footage in 2D00022, and the notion that the VESELI Defence's overlapping exhibit does not contextualise the Video to a *prima facie* standard¹⁷ is at odds with the facts.

4. [REDACTED]¹⁸ - [REDACTED].¹⁹ [REDACTED].²⁰ [REDACTED].²¹
 [REDACTED]. [REDACTED],²² [REDACTED].

¹² 2D00022, 01:52-02:17; Video, 00:15-00:40.

¹³ Video, 00:40-01:00.

¹⁴ Video, 00:50-00:57.

¹⁵ Video, 01:00-01:15.

¹⁶ *Contra* Response, KSC-BC-2020-06/F02422, para.5.

¹⁷ *Contra* Response, KSC-BC-2020-06/F02422, paras 7-8.

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED]. [REDACTED].

²¹ [REDACTED]. [REDACTED].

²² [REDACTED].

5. The Response also fails to appreciate the fact that the Video was not readily available until after W04410's testimony. It is unreasonable for the Defence to expect the SPO to re-examine W04410 as to the author of 2D00022 in anticipation of an extended version of the footage being published the week after.²³ The Defence makes such claims while neglecting subsequent events in the courtroom that actually do have a bearing on the Request, such as W04752 further bolstering the authenticity of the Video by confirming that Kadri VESELI *and* Rexhep SELIMI were escorting wounded from the Drenica Zone in April 1999.²⁴

6. The Request is timely, premised on good cause, and seeks admission of a video which clearly meets any reasonable *prima facie* admissibility assessment. The relief sought should be granted.²⁵

²³ *Contra* Response, KSC-BC-2020-06/F02422, paras 14-15.

²⁴ Transcript of Hearing, 3 July 2024, T.17503-17504 (from the morning before the Response was filed, with emphasis added: 'Q. Thank you. In April 1999, was there an evacuation of the wounded conducted? A. Yes. Q. From where to where? A. In April, we had many evacuations in many zones or areas. But in April, I remember it was from Drenica to Pashtrik area. It was a fierce offensive, and the wounded were to be taken from the Drenica area to Pashtrik area. So I remember that at that time the wounded were transferred from Drenica zone to Pashtrik zone. Q. Did members of the General Staff assist in that evacuation? A. Yes, I remember very well. At the time, Kadri Veseli and Rexhep Selimi were from the General Staff when the wounded from Drenica were transferred from Drenica area to Pashtrik.').

²⁵ The present submission is filed in accordance with Rule 82(4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020. A public redacted version is filed simultaneously, in accordance with the directions of the Panel. Transcript of Hearing, 7 November 2023, T.9446. *Contra* Response, KSC-BC-2020-06/F02422, para.18 (offering a public redacted version 'in due course' which has not yet been notified).

Word Count: 1252



Kimberly P. West

Specialist Prosecutor

Monday, 8 July 2024

At The Hague, the Netherlands.