



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

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Public Redacted Version of 'Prosecution request for partial reconsideration of Decision F01664'

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Article 40 of the Law¹ and Rule 79 of the Rules,² the Specialist Prosecutor's Office ('SPO') requests the Trial Panel to reconsider Decision F01664³ insofar as it found that paragraph 54 of W02153's Statement (the 'Paragraph')⁴ did not appear to be *prima facie* relevant to the case, and excluded it from evidence.⁵

2. The Paragraph relates to named murder victim, [REDACTED], and is therefore directly relevant to the charges in this case.⁶ This constitutes a clear error of reasoning and reconsideration is necessary to avoid injustice.⁷ Reconsideration is warranted, in particular, at this time in light of the Defence's recent claims that the evidence of W01163 – [REDACTED] - lacks corroboration.⁸

II. SUBMISSIONS

3. The Trial Panel erred in its reasoning when it determined that the Paragraph 'relate[s] to [...] allegations of organ trafficking' and is not *prima facie* relevant to the case.⁹ While the Paragraph does follow a heading that references organ trafficking, and W02153 himself made a circumstantial connection between the incident and possible organ trafficking, the substantive account actually relates to the status and

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article' or 'Articles' herein are to the Law, unless otherwise specified.

² 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.

³ Decision on Prosecution Motion for Admission of Evidence of W00072, W02153 and W04586 Pursuant to Rule 154, KSC-BC-2020-06/F01664, 10 July 2023, Confidential, ('Decision F01664'), para.29.

⁴ 076841-076856 ('W02153's Statement'), p. 076855, and 076841-076856-AT, p. 076855.

⁵ Decision F01664, KSC-BC-2020-06/F01664, paras 29, 55.

⁶ Annex 1 to Submission of Confirmed Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential, ('Indictment'), paras [REDACTED], and p. [REDACTED]; Annex 3 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, 9 June 2023, Confidential, ('Pre-Trial Brief'), paras [REDACTED].

⁷ While Rule 79 provides alternate basis for reconsideration, both limbs are met in this instance as indicated below.

⁸ Joint Defence Response to Prosecution Motion for Admission of Evidence of Witnesses W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 Pursuant to Rule 154 and Related Request, KSC-BC-2020-06/F02008, 14 December 2023, Confidential, para.5.

⁹ Decision F01664, KSC-BC-2020-06/F01664, para.29.

abduction of charged murder victim [REDACTED] and efforts made to find and rescue him. In particular, in the Paragraph, W02153 states that [REDACTED] worked for [REDACTED], and was abducted from his house in [REDACTED] following NATO's entry into Kosovo. W02153 offered a reward and inquired about [REDACTED] whereabouts, including with KLA member [REDACTED], to no avail.¹⁰

4. Indeed, in addition to the charged incident itself, W02153's evidence concerning [REDACTED] abduction is relevant to proof of numerous, pleaded allegations in the Indictment and Pre-Trial Brief, *including*: (i) KLA member [REDACTED] notice of [REDACTED] abduction;¹¹ (ii) the arrest of at least five Serbs by armed and uniformed KLA in [REDACTED] during the summer of 1999;¹² and (iii) a consistent pattern of conduct.¹³

5. The evidence corroborates and complements other evidence in this case being, in particular, probative of W01163's account and relevant to the assessment of her evidence. W01163 will testify about [REDACTED] abduction on [REDACTED] and her [REDACTED] inquiries about it with [REDACTED]. W01163 will also provide evidence about [REDACTED] and W02153's relationship. Hence, the Paragraph is squarely relevant to the charges in this case, and corroborative of other evidence. Accordingly, reconsideration is necessary to avoid the injustice that would otherwise be occasioned by its exclusion.

6. While the SPO acknowledges that reconsideration could have been sought at an earlier time, the Paragraph has heightened relevance in light of the Defence's recent challenges to W01163's account premised on lack of corroboration. Where such claims are being advanced, the exclusion of evidence corroborative of her account would

¹⁰ W02153's Statement, p. 076855, para.54.

¹¹ Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.[REDACTED].

¹² Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

¹³ See e.g. Indictment, KSC-BC-2020-06/F00999/A01, paras 17, 59, 61, 138; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 113, 267, 704.

result in injustice. The Defence will *inter alia* have the opportunity to examine W01163 regarding the information contained in the Paragraph.

III. CLASSIFICATION

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

IV. RELIEF REQUESTED

8. For the foregoing reasons, the Panel should reconsider Decision F01664 and find the Paragraph relevant to the case and admissible.

Word count: 761



Kimberly P. West

Specialist Prosecutor

27 September 2024

At The Hague, the Netherlands.