



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:** 14 October 2024

**Language:** English

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Public Redacted Version of 'Prosecution reply relating to Rule 154 motion F02593'

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1. The Response<sup>1</sup> ignores prior findings of the Panel, and the established standard for admissibility of associated exhibits, particularly in the context of Rule 154, where the witnesses will be available for cross-examination.

2. In relation to W04485, the Response mischaracterises W04485's familiarity with both the content and authenticity<sup>2</sup> of the memorandum by the Commander of [REDACTED].<sup>3</sup> Regarding the signature, W04485 indicated that he had seen [REDACTED]'s signature before and that it appeared authentic on the document.<sup>4</sup> W04485 further demonstrated his ability to recognise the signature of [REDACTED] by confirming it a second time within the same document.<sup>5</sup> Contrary to the contention in the Response, W04485 was able to corroborate concrete specifics of the document.<sup>6</sup> In relation to the other associated exhibit challenged in the Response for W04485,<sup>7</sup> the SPO clarifies that it does not tender page SPOE00038247 of SPOE00038241-SPOE00038251RED,<sup>8</sup> the contents of which are included at page SPOE00119329 of admitted Exhibit P00689.

3. In relation to W04758, the Defence's objections to the tendered associated exhibits<sup>9</sup> contain a number of misrepresentations or inaccuracies. For example, with regard to the book marked with ERN SPOE00055678-00056018, W04758 expressed uncertainty or lack of specific knowledge as to pages SPOE00055811 (p.137), SPOE00055918 (p.244), SPOE00055956 (p.272), and SPOE00055971-SPOE00055972

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<sup>1</sup> Joint Defence Response to 'Prosecution motion for admission of evidence of Witnesses W00344, W01225, W04485, and W04758 pursuant to Rule 154' with confidential Annexes 1-4, KSC-BC-2020-06/F02612, 4 October 2024, Confidential ('Response').

<sup>2</sup> Response, KSC-BC-2020-06/F02612, para.6.

<sup>3</sup> U000-4319-U000-4321-ET.

<sup>4</sup> 069474-TR-ET Part 2, pp.3-4.

<sup>5</sup> 069474-TR-ET Part 2, p.4.

<sup>6</sup> 069474-TR-ET Part 2, p.3.

<sup>7</sup> Response, KSC-BC-2020-06/F02612, paras 5, 7.

<sup>8</sup> This document was listed as Associated Exhibit no.4 at KSC-BC-2020-06/F02593/A03, p.5, as it was discussed and used in the relevant statement; however, it was inadvertently and incorrectly tendered for admission.

<sup>9</sup> Response, KSC-BC-2020-06/F02612, paras 11-14.

(pp.297-298), but did not say that their content was incorrect.<sup>10</sup> The information in those pages was also used to expand on the topics therein, thus making the pages necessary for a proper understanding of the context discussed. Further, contrary to the Defence's claims,<sup>11</sup> W04758 did recognise his signature on [REDACTED]<sup>12</sup> and explained what he knew about the document, which was used as a reference to describe the procedure of recruiting volunteers in the Llap Zone.<sup>13</sup> Similarly, with regard to [REDACTED], W04758 used the document as a reference to explain what 'practically happened';<sup>14</sup> and while W04758 did not have direct knowledge of SITF00244172-00244172,<sup>15</sup> again the document was used as a reference for follow-up questions and answers.<sup>16</sup>

4. In sum, the tendered associated exhibits were used and discussed during W04485's and W04758's SPO interviews in a way that makes them necessary to understanding their evidence.<sup>17</sup> The interviews would have lesser probative value without them.

5. Finally, with regard to Defence submissions on the English version of W04758's SPO interview,<sup>18</sup> revised versions of certain transcript parts were disclosed on 9

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<sup>10</sup> 083639-TR-ET Part 1 RED, p.19, lines 13, 21-22 (regarding p.137 of the book); 083639-TR-ET Part 9 RED, p.24 (regarding p.244 of the book); 083639-TR-ET Part 9 RED, p.22, lines 4-5 (regarding p.272 of the book); 083639-TR-ET Part 9 RED, p.28 (regarding pp.297-298 of the book). *Contra* Response, KSC-BC-2020-06/F02612, para.11.

<sup>11</sup> Response, KSC-BC-2020-06/F02612, para.13.

<sup>12</sup> The Defence is correct in linking [REDACTED] to the ERN appearing in the SPO interview as [REDACTED]. In KSC-BC-2020-06/F02593/A04, pp.10-11, Associated Exhibit no.14, 'Reference' column, the SPO had in fact provided the relevant reference where the associated exhibit was discussed under [REDACTED] (083639-TR-ET Part 2, p.32).

<sup>13</sup> 083639-TR-ET Part 2 RED, pp.32-34; 083639-TR-AT Part 2 Revised-ET Partial, p.3.

<sup>14</sup> 083639-TR-ET Part 2 RED, p.31, lines 8-9 and, more broadly, lines 4-25.

<sup>15</sup> 083639-TR-ET Part 9 RED, p.35, lines 6-8.

<sup>16</sup> 083639-TR-ET Part 9 RED, pp.36-38.

<sup>17</sup> See, similarly, Decision on Prosecution Motion for Admission of Evidence of Witnesses W01511, W04260, W04305, W04410, W04744, W04752, and W04764 Pursuant to Rule 154 (F02204), KSC-BC-2020-06/F02328, 22 May 2024, Confidential, para.17 (finding certain documents to be associated exhibits where they are used a reference point to discuss, for example, the role of attendees and elaborate upon the subject matters discussed, even where the witness could not recall the specific meeting or events discussed in the documents).


<sup>18</sup> Response, KSC-BC-2020-06/F02612, para.9.

October 2024.<sup>19</sup> The SPO seeks that they be admitted along with the versions tendered in the Motion.<sup>20</sup>

6. For the foregoing reasons and those previously given, the Motion should be granted.

7. This filing is confidential pursuant to Rule 82(4) of the Rules.<sup>21</sup> Certain ERNs have been redacted to protect the identities of the witnesses, which are not public at this time. Considering that W04758 does not have protective measures, such redactions may be lifted after the witness testifies.

**Word Count: 864**



**Kimberly P. West**

**Specialist Prosecutor**

Monday, 14 October 2024

At The Hague, the Netherlands.

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<sup>19</sup> Disclosure Package 1441, containing 083639-TR-AT Part 1 Revised-ET Partial; 083639-TR-AT Part 1 Revised 1 RED; 083639-TR-AT Part 2 Revised-ET Partial; 083639-TR-AT Part 2 Revised 1 RED; 083639-TR-AT Part 3 Revised-ET p16 lines 8-12; 083639-TR-AT Part 3 Revised RED; 083639-TR-AT Part 5 Revised RED; 083639-TR-ET Part 5 Revised RED; 083639-TR-AT Part 7-ET p29 lines 7-8; 083639-TR-AT Part 8-ET p12 line 29–p13 line 1.

<sup>20</sup> Prosecution motion for admission of evidence of Witnesses W00344, W01225, W04485, and W04758 pursuant to Rule 154 with confidential Annexes 1-8, KSC-BC-2020-06/F02593, 24 September 2024, Confidential ('Motion').

<sup>21</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').