



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:** 21 October 2024

**Language:** English

**Classification:** Confidential

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**URGENT Prosecution request to amend the Exhibit List**

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## I. INTRODUCTION

1. As foreshadowed,<sup>1</sup> pursuant to Article 40 of the Law<sup>2</sup> and Rule 118(2) of the Rules,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') requests leave to amend the Exhibit List<sup>4</sup> to include three documents acquired from W04758 on 18 October 2024 during his preparation session<sup>5</sup> (collectively, 'Requested Amendments'). The Requested Amendments consist of: (i) an adjusted and expanded version of an organigram chart of the 'KLA General Staff Formation of the Operational Zone' containing W04758's handwritten annotations; (ii) one organigram chart of the 'Llap Operative Zone'; (iii) and one organigram chart of 'Brigade 151'.<sup>6</sup> The SPO requests an expedited briefing schedule to enable a decision before the testimony of W04758, who is anticipated to be the second witness this week.<sup>7</sup>

2. This request – which, at this stage, solely concerns amendment of the Exhibit List and not admission<sup>8</sup> – is relatively limited in scope, allows timely and effective

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<sup>1</sup> Email from SPO to Panel, Parties, and participants dated 19 October 2024 at 19.33.

<sup>2</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>3</sup> 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 refer to the Rules, unless otherwise specified.

<sup>4</sup> Annex 1 to Prosecution submission of amended exhibit list with strictly confidential and *ex parte* Annex 1 and confidential Annex 2, KSC-BC-2020-06/F02511/A01, 27 August 2024, Strictly Confidential and *Ex Parte* ('Exhibit List').

<sup>5</sup> See W04758 Preparation Note 2, ERN 123228-123253, paras 84-89.

<sup>6</sup> These documents were annexed to W04758's Preparation Note 2, ERN 123264-123267, as documents B (123265), C (123266), and D (123267). The other annexed document, document A, is a duplicate of an item already on the Exhibit List (SPOE00119155-00119164, p.SPOE00119159). Translations of the documents are being prepared and will be disclosed as soon as possible today, 21 October 2024. However, considering the nature and scope of the documents, that versions thereof (with corresponding translations) are already on the Exhibit List, and in the interest of expeditiousness, translations of the Requested Amendments are not required for consideration of this request.

<sup>7</sup> For the same reasons, this request was filed on an urgent basis.

<sup>8</sup> See Decision on Prosecution Request to Amend the Exhibit List and Related Matters, KSC-BC-2020-06/F01352, 8 March 2023, Confidential ('8 March 2023 Decision'), para.31 (an evaluation of proposed amendments to the Exhibit List does not call for an assessment of admissibility, but a *prima facie* evaluation only); Decision on Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List, KSC-BC-2020-06/ F01544, 23 May 2023 ('23 May 2023 Decision'), para.11; Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List, KSC-BC-2020-06/F01656, 7 July 2023, Confidential, para.11; Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747), KSC-BC-2020-06/F01785, 12 September 2023, Confidential ('12 September 2023 Decision'),

Defence preparations, and concerns relevant material, which is probative of the charges.<sup>9</sup>

## II. SUBMISSIONS

3. In this complex multi-Accused case, involving a considerable amount of evidence, amendments to the Exhibit List should be treated with flexibility, provided that – as is the case here – there is adequate protection of the Accused’s rights.<sup>10</sup>

4. As detailed below, the Requested Amendments are relevant to W04758’s evidence and known aspects of the SPO’s case, including Llap Operational Zone structure:

- a. 123265 (document B) is a marked and adjusted version of an organigram chart of the ‘KLA General Staff Formation of the Operational Zone’, provided by the General Staff to the Llap Operational Zone and already on the Exhibit list.<sup>11</sup> The annotations, concerning names covering roles and additional structures, were made by W04758, Commander of 151 Brigade and later Chief of Staff of the Llap Operational Zone.<sup>12</sup>
- b. 123266 (document C) is an organigram chart of ‘Brigade 151’ ‘Zahir Pajaziti’. The organigram provides an overview of the brigade structure,

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para.17; Decision on Prosecution Request to Amend the Exhibit List (F01844), KSC-BC-2020-06/F01995, 8 December 2023, Confidential, para.26; Decision on Prosecution Request to Amend the Exhibit List (F02099), KSC-BC-2020-06/F02167, 7 March 2024, Confidential, para.19; Decision on Prosecution Request to Amend the Exhibit List F02279 and on Thai Defence Motion for Exclusion of Materials in Limine, KSC-BC-2020-06/F02501, 22 August 2024, Confidential (‘22 August 2024 Decision’), para.23.

<sup>9</sup> See 8 March 2023 Decision, KSC-BC-2020-06/F01352, paras 29, 31, 33; Decision on Thaçi’s Appeal against “Decision on Specialist Prosecutor’s Request to Amend its Exhibit List and to Authorise Related Protective Measures”, KSC-BC-2020-06/IA019/F00006, 12 July 2022 (‘Appeal Decision’), para.21. See also 23 May 2023 Decision, KSC-BC-2020-06/F01544, para.11; KSC-BC-2020-06/F02167, para.19; 22 August 2024 Decision, KSC-BC-2020-06/F02501, paras 44-45.

<sup>10</sup> See 8 March 2023 Decision, KSC-BC-2020-06/F01352, paras 29, 31; Appeal Decision, KSC-BC-2020-06/IA019/F00006, para.21; 12 September 2023 Decision, KSC-BC-2020-06/F01785, para.16.

<sup>11</sup> Exhibit List no.9742: SPOE00119155-00119164, p.SPOE00119158 (SPOE00119158-SPOE00119158-ET).

<sup>12</sup> W04758 Preparation Note 2, 123228-123253, para.86.

including the Brigade Commander, 'Nuredin IBISHI-Leka', and Deputy Brigade Commander, 'Arif MUCOLLI-Profa', and the Sector Heads and Battalion Commanders. It also includes the Military Police Commander of the Brigade. It is an expanded, Brigade 151 version, of a corresponding template document already on the Exhibit List,<sup>13</sup> and was prepared by, *inter alia*, W04758 after the war on the basis of organisational charts compiled during the war.<sup>14</sup>

- c. 123267 (document D) is an organigram chart of the 'Llap Operative Zone', outlining, *inter alia*, Rrustem MUSTAFA's position as Commander, Kadri KRASTRATI's position as deputy Commander and Nuredin IBISHI's position as Chief of Staff. The organigram also lays out the Sector Heads within the Llap OZ. It was prepared by, *inter alia*, W04758 after the war on the basis of 123265 (document B) above.<sup>15</sup>

5. Accordingly, the Requested Amendments are relevant and of sufficient importance to justify their addition to the Exhibit List. This request is also timely, as the documents were acquired from W04758 on 18 October 2024 during his preparation session.<sup>16</sup>

6. Finally, no undue prejudice would result from adding these documents to the Exhibit List.<sup>17</sup> The Requested Amendments total 3 pages, are versions of items already

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<sup>13</sup> Exhibit List no.9742: SPOE00119155-00119164, p.SPOE00119159 (SPOE00119159-SPOE00119159-ET).

<sup>14</sup> W04758 Preparation Note 2, 123228-123253, paras 87-88.

<sup>15</sup> W04758 Preparation Note 2, 123228-123253, para.88.

<sup>16</sup> W04758 Preparation Note 2, 123228-123253, paras 84-85, 89.

<sup>17</sup> *Compare* Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023, para.82 (where new material is of significant nature, an opposing Party may seek appropriate relief for preparations).

on the Exhibit List, relate to known aspects of the SPO's case, and contain information already in evidence and reflected in noticed adjudicated facts.<sup>18</sup>

### III. CLASSIFICATION

7. This filing is confidential in accordance with Rule 82(4) and as W04758's identity as a witness is not public at this time. Exceptionally, and considering that W04758 is anticipated to commence testimony imminently, the SPO does not intend to file a public redacted version of this request. Instead, considering that W04758 does not have protective measures, the Request can be reclassified as public following commencement of his testimony.

### IV. RELIEF REQUESTED

8. For the foregoing reasons, the SPO requests that the Panel: (i) order an expedited briefing schedule to facilitate a decision before W04758's testimony commences; (ii) authorise the Requested Amendments; and (iii) reclassify this request as public following commencement of W04758's testimony.

**Word Count: 1312**



**Kimberly P. West**

**Specialist Prosecutor**

Monday, 21 October 2024

At The Hague, the Netherlands.

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<sup>18</sup> See, *similarly*, Transcript (Oral Order), 12 July 2023, p.5551 ln 9 to p.5553 ln 19 ('The Panel is, therefore, satisfied that the list of detained persons is *prima facie* relevant and sufficiently important to justify its late addition to the exhibit list. (...) It relates to known aspects of the SPO case, is of similar nature to other documents disclosed by the SPO and already on the exhibit list, and consists of only one page of Albanian and two pages in English); 12 September 2023 Decision, KSC-BC-2020-06/F01785, para.20 ('previous disclosure of an item considered along with other factors, could satisfy the Panel that the Defence has been provided with a degree of notice of the content of the item and that an amendment of the Exhibit List in respect of that item would not adversely affect the Defence's ability to prepare for trial').