



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 Guénaël 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 motion for admission of [REDACTED]
with confidential Annexes 1-4'**

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Victims

Simon Laws

Counsel for Hashim Thaçi

Luka Mišetić

Counsel for Kadri Veseli

Rodney Dixon

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

I. INTRODUCTION

1. As foreshadowed,¹ pursuant to Article 40 of the Law,² Rules 137-138 of the Rules,³ and the Conduct of Proceedings Order,⁴ the Specialist Prosecutor's Office ('SPO') requests the admission of contemporaneous records of [REDACTED] ('Proposed Exhibits'). The Proposed Exhibits listed in Annexes 1-3⁵ are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.⁶

2. [REDACTED].⁷ Exceptionally, in the specific circumstances of the Proposed Exhibits and [REDACTED], the SPO intends to supplement the present motion [REDACTED]. Accordingly, the SPO does not object to an extension of the response deadline, so that it runs from the filing of such supplemented motion.

¹ [REDACTED].

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

³ 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.

⁴ Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 60-62. Consistent with paragraph 61 of the Conduct of Proceedings Order, the Proposed Exhibits in Annexes 1-3 were previously notified to the Defence (*see e.g.* [REDACTED]). *See also* fn.1. The Defence objects to the admission of [REDACTED] in their entirety. *See e.g.* [REDACTED].

⁵ The [REDACTED] comprising the Proposed Exhibits were provided to the SPO in [REDACTED]. Annexes 1-3 include specific indicia of the relevance, *prima facie* authenticity, and probative value of each tendered [REDACTED]. In the interest of transparency and completeness, and considering the format of the [REDACTED] contained therein are listed in the Annexes. Where a certain [REDACTED] is not tendered due to its limited relevance or because it has already been admitted, this is clearly indicated. Following a decision on this motion, the SPO proposes to provide redacted versions of the [REDACTED], redacting any individual [REDACTED] that are not admitted. Annex 4 links the abbreviations used in the 'Indictment Primary Paragraphs' column of Annexes 1-3 with the primary Indictment paragraph(s) to which each item relates. *See* Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'). Annex 4 also defines other abbreviations and short names used in this filing and Annexes 1-3.

⁶ The applicable law has been set out in prior decisions. *See e.g.* First Decision, KSC-BC-2020-06/F01409, paras 8-13.

⁷ [REDACTED].

II. SUBMISSIONS

3. The Proposed Exhibits corroborate and complement witness and documentary evidence, and adjudicated facts,⁸ which, taken together, demonstrate: (i) the KLA's communications structures and high level of organisation; (ii) that KLA members in relevant locations in Kosovo and Albania acted under the authority and pursuant to the instructions of the Accused and General Staff; and (iii) that the JCE members shared the common criminal purpose, which they implemented personally and through the structures in place. The Proposed Exhibits also corroborate and complement other evidence and adjudicated facts concerning the charged crimes; the armed conflict and widespread and systematic attack against the civilian population; the Accused's effective control, in particular, their means and ability to take necessary and reasonable measures to prevent the charged crimes or punish the perpetrators; the practical assistance, encouragement, and/or moral support the Accused provided to the perpetrators of the charged crimes; and the Accused's and other JCE members' knowledge and intent.

A. THE PROPOSED EXHIBITS ARE RELEVANT

4. The Proposed Exhibits are contemporaneous records of events during the Indictment period in all seven operational zones,⁹ and at KLA-controlled bases in northern Albania.¹⁰ The Proposed Exhibits constitute direct evidence of the communications, instructions, and reported actions of, among others, the Accused,¹¹

⁸ A non-exhaustive selection of Proposed Exhibits has been set out below, with further detail provided in Annexes 1-3. Likewise, a non-exhaustive selection of corroborative and complementary testimony, statements, exhibits, and adjudicated facts is set out in Annexes 1-3.

⁹ See e.g. Drenica: Annex 1: items 259; Annex 2: item 154; Pashtrik: Annex 1: item 153; Annex 2: item 273; Annex 3: items 9, 17, 49, 93, 135; Dukagjin: Annex 1: item 194; Annex 2: item 257; Annex 3: items 2, 5, 18, 30, 38, 44, 52, 59, 61, 66, 74, 76, 84, 91, 96, 98, 99, 104, 113; Shala: Annex 1: item 284; Annex 2: item 315; Annex 3: items 5, 105; Llap: Annex 1: item 378; Annex 2: item 21; Annex 3: items 20-21, 24, 26, 31, 32, 41, 45, 48, 51, 53, 56, 62, 65, 68, 83, 101-102, 106-107, 111, 113, 115, 118, 121-122, 134; Nerodime: Annex 1: item 198; Annex 2: item 221; Annex 3: items 47, 59, 68, 75, 92, ; Karadak: Annex 3: items 85-87, 90, 95, 117.

¹⁰ See e.g. Annex 1: item 272; Annex 2: item 128; Annex 3: items 25, 40, 50, 68, 76, 109.

¹¹ See e.g. Annex 1: items 96, 122; Annex 2: items 50, 251-252, 266; Annex 3: items 30, 59.

JCE members named in the Indictment,¹² other General Staff members,¹³ zone commanders,¹⁴ deputy zone commanders,¹⁵ and brigade and unit commanders.¹⁶ In their entirety, the Proposed Exhibits are relevant to KLA communications structures and organisation,¹⁷ including the [REDACTED].¹⁸

i. General Staff

5. The Proposed Exhibits demonstrate General Staff coordination, communication, and authority, including through: (i) meetings and contacts between General Staff members,¹⁹ and with the zone and subordinate commands,²⁰ KLA media (such as KosovaPress),²¹ other media,²² and representatives of the international community;²³ (ii) appointments and assignments of, *inter alia*, General Staff members,²⁴

¹² See e.g. Lahi BRAHIMAJ (Maxhupi): Annex 2: items 96, 187; Fatmir LIMAJ: Annex 1: item 366; Latif GASHI (Lata, Fati): Annex 2: items 181, 240, 275; Annex 3: items 107, 115; Shukri BUJA: Annex 1: items 204, 255; Annex 3: item 92; Rrustem MUSTAFA (Remi): Annex 1: items 31, 44, 78, 160; Annex 2: items 25, 113, 116, 125; Annex 3: items 13, 32, 45, 48, 51, 56, 67, 68, 101, 113, 134; Sylejman SELIMI (Sultan): Annex 1: items 131, 331, 426; Sokol BASHOTA: Annex 2: items 226, 288, 310.

¹³ See e.g. Annex 1: items 4, 49, 71, 173, 198; Annex 2: items 30, 70, 128, 140, 202-203, 312, 314; Annex 3: items 38, 40, 47, 109.

¹⁴ See e.g. Ramush HARADINAJ: Annex 1: items 26, 233-234, 334; Annex 2: items 232, 301; Annex 3: items 74; Ekrem REXHA (Drini): Annex 1: items 415-416; Annex 2: items 92, 168, 171, 245-247; Rahman RAMA: Annex 1: items 24, 311, 353; Annex 2: item 228; Annex 3: item 105; Ahmet ISUFI (Rexha): Annex 3: items 86, 90, 117.

¹⁵ See e.g. Annex 1: item 362; Annex 2: items 205, 261, 270; Annex 3: items 1, 21, 26, 32, 38, 56-57, 65, 67, 83, 102, 106, 107, 118, 122.

¹⁶ See e.g. Annex 1: items 136, 265, 334; Annex 2: items 98, 123, 209-210, 296; Annex 3: items 9, 20, 27, 29, 49, 93.

¹⁷ 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 126-134.

¹⁸ See Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.133.

¹⁹ See e.g. Annex 1: items 9, 96, 173, 257; Annex 2: items 12, 50; Annex 3: items 38, 109.

²⁰ See e.g. Annex 1: items 10, 13, 15, 17, 27, 41, 66, 118, 172, 181, 197-198, 255-259, 328-330, 344-345, 348, 350-353, 385-386, 400, 402, 430; Annex 2: items 3, 12, 36, 156, 174, 189, 192, 194, 212, 234; Annex 3: items 52, 79, 92, 126, 132, 134.

²¹ See e.g. Annex 1: items 162, 171, 435.

²² See e.g. Annex 1: items 142.

²³ See e.g. Annex 1: items 33, 71, 82, 88; Annex 2: items 14-16, 39, 46, 259, 282, 284, 310; Annex 3: items 4-5, 38, 116.

²⁴ See e.g. Annex 1: item 389; Annex 2: item 27; Annex 3: items 39, 52.

and zone and brigade commands;²⁵ (iii) involvement in and control over finances,²⁶ logistics,²⁷ training,²⁸ and operations;²⁹ (iv) issuance of communiques;³⁰ (v) prisoner releases and related negotiations;³¹ and (vi) the identification, targeting, arrest, detention, and mistreatment of alleged collaborators and other opponents.³²

ii. Operational Zones

6. The Proposed Exhibits demonstrate coordination and organisation – under the oversight and authority of the General Staff – within and between the seven operational zones and KLA bases in Albania, including in relation to: (i) operations, logistics, finances, training, and discipline;³³ (ii) meetings and contacts,³⁴ including with international representatives,³⁵ KLA media (such as KosovaPress) and other media;³⁶ and (iii) the identification, targeting, detention, and mistreatment of alleged collaborators and other opponents.³⁷

iii. Common Purpose

7. The Proposed Exhibits are relevant to establishing the existence and implementation of a common criminal purpose by means including intimidating, mistreating, committing violence against, and removing those deemed to be

²⁵ See e.g. Annex 1: items 172, 270.

²⁶ See e.g. Annex 1: items 90, 119, 129, 152, 190, 218, 274, 295, 315, 368, 376; Annex 2: item 44; Annex 3: item 60.

²⁷ See e.g. Annex 1: items 43-44, 101-102, 130, 260-263, 341-342, 363, 413; Annex 2: items 233, 276, 278, 307; Annex 3: items 47, 60, 68, 109.

²⁸ See e.g. Annex 2: items 4, 219.

²⁹ See e.g. Annex 1: items 101, 175, 251; Annex 2: items 194, 285; Annex 3, items 38, 74, 76.

³⁰ See e.g. Annex 2: item 35, 112, 132, 291.

³¹ See e.g. Annex 2: items 95, 216-218; Annex 3: items 86-87.

³² See e.g. Annex 2: items 106, 141, 217, 218, 222, 223, 227, 280; Annex 3: item 40.

³³ See e.g. Annex 1: items 7, 19, 63, 78, 110, 129, 177, 219, 381; Annex 2: items 27, 60, 66, 72, 76, 78, 122, 125, 195, 205, 207, 287; Annex 3: items 46, 68, 106, 108, 114-115, 120.

³⁴ See e.g. Annex 1: item 129; Annex 3: item 106.

³⁵ See e.g. Annex 1: items 72, 76; Annex 2: items 133, 237; Annex 3: item 38.

³⁶ See e.g. Annex 1: items 1, 142, 222, 238; Annex 2: items 34, 108, 151-153, 206, 272, 291, 293, 299; Annex 3: items 41, 44, 50, 61, 66, 76, 84.

³⁷ See e.g. Annex 1: item 7; Annex 2: items 97, 149, 186, 210, 212-213, 240; Annex 3: items 51, 83, 85, 91, 101.

opponents.³⁸ Among others, the following victims are discussed in a number of Proposed Exhibits: Blerim KUQI,³⁹ Veljko MARKOVIĆ and Nebojsa DJURIČIĆ,⁴⁰ [REDACTED],⁴¹ [REDACTED],⁴² and Ymer XHAFIQI.⁴³

iv. [REDACTED]

8. Finally, certain Proposed Exhibits are relevant to the [REDACTED].⁴⁴ In this respect, [REDACTED] of each Proposed Exhibit allow for the [REDACTED]. For example:⁴⁵ (i) [REDACTED];⁴⁶ (ii) [REDACTED];⁴⁷ and (iii) [REDACTED].⁴⁸ As indicated where relevant in the Annexes, [REDACTED] are also supported by documentary evidence and witness evidence.

B. THE PROPOSED EXHIBITS ARE *PRIMA FACIE* AUTHENTIC AND RELIABLE

9. The Proposed Exhibits contain multiple indicia of authenticity, as indicated for each in Annexes 1-3.⁴⁹

³⁸ See e.g. Annex 1: items 7, 23, 83, 88, 245, 254, 275, 310, 314-315, 320-321, 326, 331, 353, 370, 387; Annex 2: items 97, 107, 115, 137, 141, 179, 186, 240; Annex 3: items 51, 83, 85, 91, 101.

³⁹ See e.g. Annex 1: items 216, 219, 230, 231, 246, 275, 276, 300, 332. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 502-503.

⁴⁰ See e.g. Annex 2: items 88, 93, 95, 106, 116. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.514.

⁴¹ See e.g. Annex 2: items 207, 209-210, 212-218, 220, 222-225. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.[REDACTED].

⁴² See e.g. Annex 2: items 227, 253. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.[REDACTED].

⁴³ See e.g. Annex 2: items 280-281. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 506-508.

⁴⁴ See also para.9 below.

⁴⁵ Multiple additional examples are provided in Annexes 1-3 of [REDACTED]. See e.g. Annex 1: items 54, 98, 131, 156, 205, 207, 247, 253, 278, 294, 333, 410, 416, 426, 428; Annex 2: items 55, 117, 313; Annex 3: items 102, 103, 117, 120, 124, 126, 134.

⁴⁶ Annex 1: item 98.

⁴⁷ Annex 2: item 117.

⁴⁸ Annex 2: item 313.

⁴⁹ For purposes of assessing certain of the indicia (such as [REDACTED]) identified below and in Annexes 1-3, both the original and translation should be consulted.

10. In addition to formal indicia apparent on the face of each Proposed Exhibit,⁵⁰ other indicia can be seen when the collection is viewed holistically. For example, as reflected in detail in Annexes 1-3, many of the Proposed Exhibits: (i) concern the same matter, issue, or person;⁵¹ (ii) [REDACTED], including the Accused and named JCE members, and/or persons associated with the same entity (such as members of the General Staff and operational zone commands);⁵² (iii) contain detailed information, including on routine and administrative matters;⁵³ and (iv) are corroborated by and complementary to admitted evidence, other items on the Exhibit List, adjudicated facts, and witness evidence.⁵⁴

11. Multiple witnesses provide evidence concerning the provenance, authenticity, and/or reliability of individual Proposed Exhibits and [REDACTED] as a whole. During questioning by the SPO, Defence, and Panel, [REDACTED] and others with knowledge of the Proposed Exhibits or their contents – including [REDACTED],⁵⁵ [REDACTED],⁵⁶ [REDACTED],⁵⁷ [REDACTED],⁵⁸ and [REDACTED]⁵⁹ – have confirmed the accuracy of, corroborated, and/or contextualised certain Proposed Exhibits.

12. Other witnesses provide evidence concerning [REDACTED] of the Proposed Exhibits. [REDACTED].⁶⁰ [REDACTED],⁶¹ as well as the [REDACTED].⁶² In particular,

⁵⁰ See Annexes 1-3. For example, the Proposed Exhibits, which were [REDACTED], are: (i) [REDACTED]; (ii) [REDACTED]; and/or (iii) [REDACTED].

⁵¹ See e.g. Annex 1: items 72, 76, 264-265, 369-370, 392, 405; Annex 2: items 53-54, 64; Annex 3: items 4-5, 85-86.

⁵² See e.g. fns.9-15, 19-37, 47-49 above.

⁵³ See e.g. fns.26-27, 33 above.

⁵⁴ See Annexes 1-3.

⁵⁵ See e.g. Transcript, [REDACTED].

⁵⁶ See e.g. Transcript, [REDACTED]; Transcript, [REDACTED].

⁵⁷ See e.g. Transcript, [REDACTED].

⁵⁸ See e.g. Transcript, [REDACTED]; Transcript, [REDACTED].

⁵⁹ See e.g. Transcript, [REDACTED]; Transcript, [REDACTED].

⁶⁰ [REDACTED].

⁶¹ [REDACTED].

⁶² [REDACTED].

[REDACTED].⁶³ [REDACTED].⁶⁴ During his SPO interview, [REDACTED]. The Panel admitted these [REDACTED], acknowledging their *prima facie* authenticity, relevance, and probative value.⁶⁵ He also confirmed [REDACTED] certain Proposed Exhibits, as indicated where relevant in the Annexes.⁶⁶

13. Witnesses [REDACTED] – whose prior statements and associated exhibits, including [REDACTED] among the Proposed Exhibits,⁶⁷ were also found to be *prima facie* authentic, relevant, and probative⁶⁸ – [REDACTED]. [REDACTED] the authenticity and reliability of the Proposed Exhibits.⁶⁹

C. THE PROPOSED EXHIBITS'S PROBATIVE VALUE IS NOT OUTWEIGHED BY ANY PREJUDICE

14. As the Proposed Exhibits are *prima facie* authentic, reliable, and relevant, they have probative value. No prejudice outweighs such probative value. The Defence has had and will have ample opportunity to address and make submissions concerning the Proposed Exhibits, put their contents to witnesses, and lead evidence to the contrary.⁷⁰ At the end of the trial, the Panel will assess what weight to assign any admitted exhibits in light of the entire record.⁷¹

III. CLASSIFICATION

15. This filing and its Annexes are confidential pursuant to Rule 82(4) and to give effect to existing protective measures and provider-applied confidentiality

⁶³ [REDACTED].

⁶⁴ [REDACTED].

⁶⁵ [REDACTED].

⁶⁶ [REDACTED].

⁶⁷ To the extent these Proposed Exhibits are admitted [REDACTED], the relevant annexes will be adjusted accordingly in the foreshadowed supplemented motion.

⁶⁸ [REDACTED].

⁶⁹ As stated in para.2 above, the SPO will supplement the present motion [REDACTED].

⁷⁰ See, *similarly*, Sixth Decision, KSC-BC-2020-06/F01983, paras 32, 87, 97, 105, 113, 121.

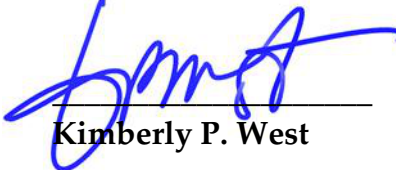
⁷¹ Sixth Decision, KSC-BC-2020-06/F01983, para.129.

restrictions. For each Proposed Exhibit, the proposed classification is indicated in Annexes 1-3, with accompanying justification.⁷²

IV. RELIEF REQUESTED

16. For the foregoing reasons, the Panel should admit the Proposed Exhibits.

Word count: 2998



Kimberly P. West

Specialist Prosecutor

Friday, 25 October 2024

At The Hague, the Netherlands.

⁷² See First Decision, KSC-BC-2020-06/F01409, para.22.