



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 supplement to motion F02676 with confidential Annexes 1-4'

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I. INTRODUCTION

1. As foreshadowed,¹ and following the testimony of the Rule 154 Witnesses,² the Specialist Prosecutor's Office ('SPO') hereby supplements its request for the admission of contemporaneous records of [REDACTED] ('Proposed Exhibits').³ For the reasons set out below and in the Initial Motion, the Proposed Exhibits listed in Annexes 1-3⁴ – which, together with Annex 4, replace the corresponding annexes to the Initial Motion – are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.

II. SUBMISSIONS

A. THE [REDACTED] WAS RELIABLE AND THE PROPOSED EXHIBITS *PRIMA FACIE* AUTHENTIC⁵

2. The Rule 154 Witnesses and [REDACTED] provide complementary and corroborative evidence concerning the creation and accuracy of the Proposed

¹ Prosecution motion for admission of [REDACTED], KSC-BC-2020-06/F02676, 25 October 2024, Confidential ('Initial Motion'), para.2.

² [REDACTED] (collectively, 'Rule 154 Witnesses').

³ This supplement and its annexes include limited additional submissions, including in relation to the testimony of the Rule 154 Witnesses. The annexes also include corrections and standardise the text in certain authenticity and relevance entries. To facilitate review and noting that word versions of the annexes to the Initial Motion were already provided to the Defence, the SPO will provide word versions of the annexes to this supplement upon request.

⁴ 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.

⁵ These submissions supplement those contained in Section II(B) of the Initial Motion.

Exhibits.⁶ During the Indictment period: (i) [REDACTED]; (ii) [REDACTED]; and (iii) [REDACTED], who used and relied upon information from [REDACTED] and was, [REDACTED] in response to the SPO's request.

3. [REDACTED] provided evidence about the [REDACTED] during the Indictment period and [REDACTED].⁷ By 1999, there were [REDACTED]⁸ [REDACTED].⁹ [REDACTED].¹⁰ [REDACTED].¹¹ [REDACTED].¹²

4. [REDACTED], which was consistent with the format used in the Proposed Exhibits.¹³ [REDACTED].¹⁴ [REDACTED].¹⁵ [REDACTED].¹⁶ In this respect, [REDACTED],¹⁷ including an [REDACTED].¹⁸ [REDACTED].¹⁹

5. During the Indictment period, there was [REDACTED].²⁰ [REDACTED]²¹ – [REDACTED].²² [REDACTED].²³ [REDACTED].²⁴ [REDACTED]²⁵ [REDACTED].²⁶

⁶ Since the Initial Motion, additional witnesses (such as [REDACTED]) have also been questioned about Proposed Exhibits, providing corroborative evidence. *See e.g.* Transcript, [REDACTED]. *See also* Initial Motion, KSC-BC-2020-06/F02676, para.11.

⁷ [REDACTED]. *See also* [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED]. *See also* [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² [REDACTED] (also noting that, in case of [REDACTED], a decision would be made about [REDACTED]).

¹³ [REDACTED]. *See also* [REDACTED].

¹⁴ [REDACTED].

¹⁵ [REDACTED]. *See also* [REDACTED].

¹⁶ [REDACTED]. *See also* [REDACTED]. [REDACTED]. *See* [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED]. *See also* [REDACTED].

¹⁹ [REDACTED]. *See also* [REDACTED].

²⁰ [REDACTED].

²¹ In relation to the latter category, *see* [REDACTED].

²² [REDACTED].

²³ [REDACTED]. *See also* [REDACTED].

²⁴ [REDACTED].

²⁵ *See e.g.* Annex 2, items 31, 36, 61, 178, 192.

²⁶ [REDACTED]. *See also* [REDACTED].

6. [REDACTED],²⁷ [REDACTED],²⁸ as indicated where relevant in the annexes. Likewise, in [REDACTED]. The Panel admitted these [REDACTED], acknowledging their *prima facie* authenticity, relevance, and probative value.²⁹ [REDACTED],³⁰ which feature on certain Proposed Exhibits, as indicated where relevant in the annexes.

7. In [REDACTED] during the Indictment period.³¹ [REDACTED].³² [REDACTED],³³ [REDACTED].³⁴ Likewise, [REDACTED].³⁵ All relevant material that was requested by the SPO was provided.³⁶

8. Collectively, the evidence of [REDACTED] – together with other complementary and corroborative evidence – establish the reliability of [REDACTED] and the *prima facie* authenticity of the Proposed Exhibits.

B. THE TIMING OF THE INITIAL MOTION CAUSED LIMITED, IF ANY, PREJUDICE

9. While the Defence has generally asserted prejudice arising from the timing of the Initial Motion,³⁷ it has not concretely demonstrated any impact on its preparations,³⁸ considering that: (i) the Initial Motion did not impact on the notified scope of the Rule 154 Witnesses' evidence, which concerns primarily [REDACTED] and the authenticity and reliability of [REDACTED] overall; (ii) the Initial Motion did not change the specific, limited, and duly notified documents that the SPO intended

²⁷ [REDACTED].

²⁸ [REDACTED].

²⁹ [REDACTED].

³⁰ [REDACTED].

³¹ [REDACTED].

³² [REDACTED].

³³ [REDACTED].

³⁴ [REDACTED]. *See also* [REDACTED].

³⁵ [REDACTED].

³⁶ [REDACTED]. *See also* [REDACTED].

³⁷ [REDACTED].

³⁸ [REDACTED], that the Defence, when seeking such delay, did not provide any concrete explanation of prejudice and that the scope of the Rule 154 Witnesses' evidence and the specific documents the SPO intended to use with the Rule 154 Witnesses was clear, duly notified, and not impacted by the Initial Motion. [REDACTED].

to use with and/or tender through the Rule 154 Witnesses; (iii) the Proposed Exhibits have long been disclosed and on the Exhibit List; (iv) as demonstrated by their use of Proposed Exhibits with witnesses, including but not limited to the Rule 154 Witnesses, and related oral and written submissions, the Defence is well-acquainted with the materials and was able to adequately prepare; (v) the Defence was on notice that the Initial Motion would be filed in due course and did not make any related requests;³⁹ (vi) the Defence had the opportunity to consult the Initial Motion, including in relation to the limited, notified items the SPO intended to use with the Rule 154 Witnesses, and those used in the course of testimony by other Parties and the Panel;⁴⁰ (vii) the Initial Motion did not disclose any new information, but instead made submissions on admission through the bar table and for this purpose, summarised the contents of [REDACTED] and related documentary and witness evidence;⁴¹ and (viii) the timing of the Initial Motion provided the Defence further time to prepare its response before the SPO filed this supplement.

10. Nevertheless, while there is limited, if any, prejudice, the SPO is mindful of the Panel's guidance in this regard and will take it into account in future.

III. CLASSIFICATION

11. This filing and its annexes are confidential pursuant to Rule 82(4) and to give effect to existing protective measures and provider-applied confidentiality restrictions. [REDACTED],⁴² [REDACTED].

³⁹ [REDACTED].

⁴⁰ While the full scope of the Initial Motion was not relevant to and did not impact the testimony of the Rule 154 Witnesses, the SPO endeavoured to file it in advance of their testimony so that – for the limited number of noticed items that were intended to be used with those witnesses – the Defence would have the benefit of being able to consult the information provided in the Initial Motion.

⁴¹ Like the [REDACTED], the corroborative and complementary evidence referred to has long been disclosed, on the Exhibit List, and/or, more recently, admitted.

⁴² [REDACTED].

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

IV. RELIEF REQUESTED

13. For the foregoing reasons and those given in the Initial Motion, the Panel should admit the Proposed Exhibits.

Word count: 2154



Kimberly P. West

Specialist Prosecutor

Thursday, 21 November 2024

At The Hague, the Netherlands.