



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: 28 November 2024

Language: English

Classification: Public

Public Redacted Version of 'Prosecution motion for admission of evidence of Witness W02183 pursuant to Rule 154 with confidential Annexes 1-2'

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ and Rules 137-138 and 154 of the Rules,² the Specialist Prosecutor's Office ('SPO'): (i) submits the information required by paragraphs 73-74 of the Conduct of Proceedings Order;³ and (ii) requests the admission of the statement ('Rule 154 Statement'), together with the associated exhibits,⁴ of W02183.⁵ Taking into account, *inter alia*, the cross-examination estimates for the witnesses anticipated in the next block and the witnesses' circumstances,⁶ the SPO has identified W02183 as a suitable additional witness for January 2025.⁷

2. Consistent with Rule 154, W02183 is anticipated to: (i) be present in court; (ii) be available for cross-examination and any questioning by the Panel; and (iii) attest that his Rule 154 Statement accurately reflects his declaration and what he would say if examined. As detailed below and in accompanying Annex 1, the Proposed Evidence meets the requirements of the Rules, is relevant, authentic, and reliable, and has probative value, which – considering, in particular, that the W02183 will be available for cross-examination – is not outweighed by any prejudice. Admission is therefore in the interests of justice.⁸

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule' or 'Rules' are to the Rules.

³ See Annex 2. See also Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order').

⁴ The Rule 154 Statement and associated exhibits are referred to herein as the 'Proposed Evidence'.

⁵ Annex 1 to this filing contains a table identifying the Proposed Evidence for W02183.

⁶ Corrected Version of Joint Defence Consolidated Response to F02620 and F02625, KSC-BC-2020-06/F02677/COR, 25 October 2024, Confidential.

⁷ The order for the next evidentiary block, including W02183, will be notified by 5 December 2024 in accordance with the deadline in the Conduct of Proceedings Order.

⁸ The applicable law has been set out in previous submissions and decisions in this case. See *e.g.* Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023, Confidential, paras 26-35.

II. SUBMISSIONS

A. W02183

3. *Relevance.* W02183 was [REDACTED]. W02183 arrived in Kosovo in June 1999, [REDACTED].

4. W02183 provides evidence about the situation he observed in Kosovo upon arrival, including the security situation, the targeting of and crimes against ethnic minorities, and measures taken to address these issues. W02183 provides evidence about meetings he had with KLA leaders, [REDACTED], and the issues discussed, such as [REDACTED]. W02183 provides evidence about the KLA establishing police units and local governments, and the [REDACTED]. W02183 notes that it was apparent from the outset that KLA leaders, including Hashim THAÇI, considered themselves to be in charge.

5. According to W02183, THAÇI had the influence to stop violence against minorities, had the authority to shape the actions of the KLA, and was in a position to assign responsibilities to others within the KLA, including Agim ÇEKU.

6. Finally, W02183 provides evidence about [REDACTED], the deployment of [REDACTED], and the disarmament and demilitarisation of the KLA.

7. W02183's evidence is thus relevant to the charges in the Indictment.⁹

8. *Authenticity and reliability.* W02183's Rule 154 Statement – comprising his SPO statement¹⁰ – is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.¹¹ The signed Rule 154 Statement includes a declaration by W02183,

⁹ Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential, paras [REDACTED]; Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-BC-2020-06/F01594/A03, 9 June 2023, paras [REDACTED].

¹⁰ 101610-101634 RED.

¹¹ For an individualised assessment of reliability, *see* Annex 1.

confirming that the contents of his statement are true and accurate,¹² and he was duly advised of his rights as a witness.¹³

9. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 1 – consisting of a news article, [REDACTED], and a letter addressed to W02183, discussed during the SPO interview – should be admitted as they form an inseparable and indispensable part of W02183’s Rule 154 Statement, in that they are used, explained, and identified in W02183’s evidence.

10. *Suitable for Rule 154 admission.* W02183’s Proposed Evidence satisfies the requirements of Rule 154, and considering that he will be available for cross-examination, the probative value of the Proposed Evidence is not outweighed by any prejudice. The SPO intends to elicit brief oral testimony from W02183 for approximately two hours on essential matters that clarify, supplement, or explain certain aspects of his evidence.

III. CLASSIFICATION

11. This submission and Annexes 1-2 are confidential pursuant to Rule 82(4) and considering that the witness’s identity is not public at this time.

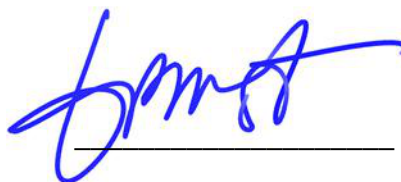
IV. RELIEF REQUESTED

12. For the foregoing reasons, the Trial Panel should admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by W02183 during his appearance in court.

¹² 101610-101634 RED, p.101633.

¹³ 101610-101634 RED, p.101610.

Word Count: 902



Kimberly P. West

Specialist Prosecutor

Thursday, 28 November 2024

At The Hague, the Netherlands.