



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: 27 February 2025

Language: English

Classification: Public

Public Redacted Version of 'Prosecution consolidated motion for the admission of W02677's evidence pursuant to Rule 153 and submissions related to W04436 and W04395 with confidential Annex 1'

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. Pursuant to Articles 37 and 40 of the Law,¹ Rules 137-138, 141(1), and 153 of the Rules,² and the Panel's Oral Order,³ the Specialist Prosecutor's Office ('SPO') seeks the admission in lieu of oral testimony of W02677's SPO interview.⁴ This statement is relevant, *prima facie* reliable, has probative value which is not outweighed by any prejudice, and meets all Rule 153 conditions. Admission is therefore in the interests of justice.⁵

2. Pursuant to the February 2025 Decision,⁶ the SPO also seeks admission of the signed version of W04436's 2010 Interview.⁷ Finally, the SPO clarifies that it does not intend to make a Rule 153 application in relation to W04395, noting that an OSCE incident report, which includes the witness's account, was admitted through W03724 as P00406.

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').

³ Oral Order, Transcript, 25 February 2025, p.25562.

⁴ See Annex 1. As indicated therein, the associated exhibits have already been admitted and are not being tendered.

⁵ The applicable law has been set out previously. See Public Redacted Version of 'Prosecution motion for admission of evidence of Witnesses W01237, W04594, W04592, W04872, W04871, W04673 and W04362 pursuant to Rule 153', KSC-BC-2020-06/F01658/RED, 17 November 2023, paras 6-12; Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153, KSC-BC-2020-06/F01904/RED, 27 November 2023, paras 7-12.

⁶ Decision on Prosecution Motion for the Admission of the Evidence of Witnesses W00964, W02172, W02538, W02549, W04238, W04380, W04386, W04436, W04661, and W04734 pursuant to Rule 153, KSC-BC-2020-06/F02937, 14 February 2025, Confidential ('February 2025 Decision'), paras 77-78, 95(c) (deferring a decision on W04436's 2010 statement until the SPO satisfies the Rule 153(2) requirements).

⁷ See Section II(B) below.

A. W02677

4. The Panel has already found that W02677's SPO interview is relevant, *prima facie* authentic, and probative.¹¹ Further, W02677 provides crime-base evidence, which is particularly suitable for admission in lieu of oral testimony, and the probative value of the SPO interview is not outweighed by any prejudice. In this respect, W02677's SPO interview is cumulative with other witness and documentary evidence concerning, *inter alia*, the detention and mistreatment of civilians by KLA members in the Prizren [REDACTED].¹² W02677's evidence is also corroborated by witnesses whom the Accused have confronted, including through cross-examination.¹³ Finally, the Defence agreed to admission of the SPO interview pursuant to Rule 153, having proposed it despite the opportunity to cross-examine the witness during his planned appearance this week.

¹³ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

5. In the circumstances and considering that the witness's planned testimony was cancelled at short notice, Rule 153 admission would also spare the witness the undue burden of again preparing for testimony, and avoid unnecessary stress, expense, and other disruptions to the witness's life, including potential retraumatisation.

B. W04436

6. On 14 February 2025, the Trial Panel admitted a number of statements and associated exhibits of W04436, finding that they were *prima facie* authentic, probative, and not unduly prejudicial.¹⁴ These findings also related to W04436's 2010 interview,¹⁵ in relation to which, however, the Trial Panel deferred its admissibility decision because the document was not signed by the witness.¹⁶

7. On 26 February 2025, the SPO disclosed the Albanian version of the 2010 interview signed by W04436,¹⁷ in compliance with the requirements of Rule 153(2). With both the formal and substantive requirements for admissibility now satisfied, the SPO requests that the 2010 interview be admitted in evidence pursuant to Rule 153.¹⁸

III. CLASSIFICATION

8. This submission and its annex are confidential as they contain information concerning witnesses with protective measures.

IV. RELIEF REQUESTED

9. For the foregoing reasons, the Trial Panel should admit, pursuant to Rule 153, (i) W02677's SPO interview, and (ii) W04436's 2010 interview.

¹⁴ February 2025 Decision, KSC-BC-2020-06/F02937, paras 74-75, 78.

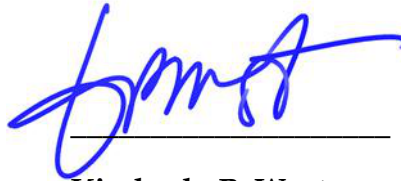
¹⁵ SITF00013316-00013335 RED.

¹⁶ February 2025 Decision, KSC-BC-2020-06/F02937, para.77.

¹⁷ SITF00372788-SITF00372797 RED, Disclosure Package 1605.

¹⁸ Both SITF00013316-00013335 RED and SITF00372788-SITF00372797 RED (and SITF00372797-SITF00372797-ET Revised RED) should be admitted, as the former contains the English version of the interview and two photographs shown to W04436, and the latter includes W04436's signature.

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Kimberly P. West

Specialist Prosecutor

Thursday, 27 February 2025

At The Hague, the Netherlands.