



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

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**Public Redacted Version of 'Prosecution motion for admission of evidence of  
Witness W04419 pursuant to Rule 154 with confidential Annexes 1-2'**

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## I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,<sup>1</sup> and Rules 137-138 and 154 of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO'): (i) submits the information required by paragraphs 73-74 of the Conduct of Proceedings Order,<sup>3</sup> and (ii) requests the admission of the statements (collectively, 'Rule 154 Statement') of witness W04419.<sup>4</sup>

2. [REDACTED].<sup>5</sup> These materials have now been disclosed<sup>6</sup> and the SPO currently intends to call W04419 to testify the week of [REDACTED].<sup>7</sup>

3. Consistent with Rule 154, W04419 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 the accompanying Annex 1, the Rule 154 Statement meets the requirements of the Rules, is relevant, authentic, and reliable, and has probative value, which – considering, in particular, that W04419 will be available for cross-examination – is not outweighed by any prejudice. Admission is therefore in the interests of justice.<sup>8</sup>

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

<sup>2</sup> 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.

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

<sup>4</sup> Annex 1 to this filing contains a table identifying the Rule 154 Statement for W04419. In the interest of expeditiousness and as also set out below, the SPO is now seeking to admit W04419's prior statements under Rule 154 (W04419 was previously fully *viva voce*) and, subject to a decision on this request, has reduced the examination time for W04419 from six hours to one hour. See also Prosecution further submissions concerning F02899, KSC-BC-2020-06/F02939, 17 February 2025, Confidential ('Further Submissions'), para.4.

<sup>5</sup> [REDACTED].

<sup>6</sup> See Disclosure Packages 1606-1607. See also Disclosure Packages 1608-1609.

<sup>7</sup> See also Further Submissions, KSC-BC-2020-06/F02939, para.4.

<sup>8</sup> 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

4. *Relevance.* W04419 is a Kosovar-Albanian that was detained [REDACTED].

5. W04419 was interrogated and beaten. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

6. W04419's evidence is thus relevant to charged crimes in the Indictment.<sup>9</sup>

7. *Authenticity and reliability.* W04419's Rule 154 Statement is comprised of (i) W04419's SPO interview;<sup>10</sup> (ii) [REDACTED];<sup>11</sup> and (iii) [REDACTED].<sup>12</sup> Each statement bears sufficient indicia of authenticity and reliability.<sup>13</sup>

8. W04419's SPO interview is recorded in a verbatim transcript of the audio-video recorded interview, and is authentic and reliable. W04419 confirmed that the contents of his recorded statement are true and accurate, his statement was given voluntarily without any threats, force, or guarantees, and he had no objections to the manner or process by which the statement was taken.<sup>14</sup> During his SPO interview, W04419 had an opportunity to review both other prior statements tendered herein as part of his Rule 154 Statement, and W04419 confirmed that both were voluntary, accurate, and truthful.<sup>15</sup> During his SPO interview, W04419 was also given the opportunity to clarify

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<sup>9</sup> See, *inter alia*, Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'), 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 ('Pre-Trial Brief'), paras [REDACTED].

<sup>10</sup> 066546-TR-ET Parts 1-6 RED; 066545-TR-ET Parts 1-3 RED.

<sup>11</sup> SPOE00122225-00122245.

<sup>12</sup> SITF00240402-00240408 RED.

<sup>13</sup> For an individualised assessment, see Annex 1.

<sup>14</sup> 066546-TR-ET Part 6 RED, pp.1-3; 066545-TR-ET Part 3 RED, pp.2-4.

<sup>15</sup> See 066546-TR-ET Part 1 RED, pp.6-22; 066546-TR-ET Part 2 RED, pp.1-16; 066546-TR-ET Part 3 RED, pp.1-10; 066546-TR-ET Part 4 RED, pp.1-14; 066546-TR-ET Part 5 RED, pp.1-8.

or make corrections to both other prior statements, which he did where necessary.<sup>16</sup>  
In addition, these statements bear sufficient independent indicia of reliability.<sup>17</sup>

9. *Suitable for Rule 154 admission.* W04419's Rule 154 Statement satisfies the requirements and serves the purposes of Rule 154. The SPO previously proposed W04419 as a fully *viva voce* witness with a six-hour direct examination,<sup>18</sup> and recently indicated the intention to convert the witness to Rule 154.<sup>19</sup> Rule 154 admission for W04419's Rule 154 Statement will significantly reduce the number of hours required for direct examination, and contribute to a fair and efficient trial. The SPO intends to elicit brief oral testimony from W04419 for approximately one hour on essential matters that clarify or explain certain aspects of his evidence.

### III. CLASSIFICATION

10. This submission and its Annexes are confidential pursuant to Rule 82(4) and to give effect to existing protective measures.

### IV. RELIEF REQUESTED

11. For the foregoing reasons, the Panel should admit the Rule 154 Statement, subject to fulfilment of the Rule 154 conditions by W04419 during his appearance in court.

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<sup>16</sup> See 066546-TR-ET Part 1 RED, pp.6-22; 066546-TR-ET Part 2 RED, pp.1-16; 066546-TR-ET Part 3 RED, pp.1-10; 066546-TR-ET Part 4 RED, pp.1-14; 066546-TR-ET Part 5 RED, pp.1-8.

<sup>17</sup> For an individualised assessment, see Annex 1.

<sup>18</sup> Amended List of Witnesses, KSC-BC-2020-06/F01594/A01, 9 June 2023, Strictly Confidential and *Ex Parte*, pp.11, 311; Prosecution submission of amended witness list, KSC-BC-2020-06/F02962/A01, 25 February 2025, Strictly Confidential and *Ex Parte*, p.10.

<sup>19</sup> Further Submissions, KSC-BC-2020-06/F02939, para.4.

**Word Count: 1,068**



**Kimberly P. West**

**Specialist Prosecutor**

Thursday, 27 February 2025

At The Hague, the Netherlands.