



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:** 11 March 2025

**Language:** English

**Classification:** Public

---

Public redacted version of 'Prosecution reply to joint Defence response to seventh Rule 155 motion'

---

**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. The Response<sup>1</sup> raises arguments that disregard the applicable law and previous findings of this Panel. The evidence proposed in the Motion ('Proposed Evidence')<sup>2</sup> satisfies all relevant criteria and should be admitted for a proper determination of the charges in this case. The Defence objections are unsubstantiated and should be dismissed.

## II. SUBMISSIONS

### A. W00742

2. The Defence does not object to admission of W00742's Proposed Evidence, if the Panel finds that the Rule 155(1) requirements are met. The remaining submissions in the Response go to weight, not admissibility. In any event, contrary to Defence submissions,<sup>3</sup> W00742's evidence is reliable and should be given appropriate weight during the Panel's final assessment of the evidence at the conclusion of the trial.

3. *The evidence is prima facie reliable.* All tendered statements of W00742, taken together, paint a clear picture of, *inter alia*: i) the repeated arrests [REDACTED] in mid-June 1999;<sup>4</sup> ii) his mistreatment while in detention;<sup>5</sup> iii) his disappearance shortly after

---

<sup>1</sup> Joint Defence Response to 'Prosecution seventh motion for admission of evidence pursuant to Rule 155', KSC-BC-2020-06/F02985, 05 March 2025, Confidential ('Response').

<sup>2</sup> Prosecution seventh motion for admission of evidence pursuant to Rule 155, KSC-BC-2020-06/F02952, 21 February 2025, Confidential ('Seventh Motion').

<sup>3</sup> Response, KSC-BC-2020-06/F02985, paras 6-10.

<sup>4</sup> 072659-TR-ET Part 1, pp.6-7, 11, 16, 17, 19, 20-21; SITF00316405-00316409 RED, pp.SITF00316406-00316407.

<sup>5</sup> 072659-TR-ET Part 1, pp.15, 19-20; SITF00316405-00316409 RED, p.00316407.

the last and final arrest;<sup>6</sup> iv) the existence of the KLA facility in the village of Balaj/Balić;<sup>7</sup> and v) the involvement of the KLA commander.<sup>8</sup>

4. The relatively minor discrepancies discussed in the Response concern the timing of events in W00742's account and slight inconsistencies with the evidence of [REDACTED];<sup>9</sup> they do not invalidate the core of her evidence and are understandable in light of the contemporaneous vulnerability of the witness, and the stress and trauma that W00742 suffered as a result of the mistreatment and subsequent disappearance of [REDACTED].<sup>10</sup> Further, the Panel has already unequivocally stated that alleged discrepancies will be assessed, where necessary, on the evidence as a whole,<sup>11</sup> go to weight and probative value,<sup>12</sup> and do not render proposed Rule 155 evidence of a particular witness inadmissible.<sup>13</sup>

5. Similarly, the Defence's observations regarding hearsay have been rejected by the Panel on numerous occasions.<sup>14</sup> W00742's hearsay evidence is first-hand, based on information provided to her directly by [REDACTED],<sup>15</sup> immediately after each release from detention.<sup>16</sup> This information is strongly corroborated by the signs of

---

<sup>6</sup> 072659-TR-ET Part 1, pp.21–22; SITF00316405-00316409 RED, p.00316407.

<sup>7</sup> 072659-TR-ET Part 1, pp.7, 11, 16, 18, 19,21, 22; SITF00316405-00316409 RED, pp.SITF00316406-00316407.

<sup>8</sup> 072659-TR-ET Part 1, pp.17–18, 19, 20, 22; SITF00316405-00316409 RED, p.SITF00316407-SITF00316408.

<sup>9</sup> Cf. Response, KSC-BC-2020-06/F02985, paras 9-10.

<sup>10</sup> See e.g. ICC, *Prosecutor v. Lubanga*, ICC-01/04-06/2842, Judgment pursuant to Article 74 of the Statute, 14 March 2012, para.103 ('The Chamber has made appropriate allowance for any instances of imprecision, implausibility or inconsistency, bearing in mind the overall context of the case and the circumstances of the individual witnesses').

<sup>11</sup> See Decision on Prosecution Second Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01864, 17 October 2023, Confidential ('Second Decision'), para.48.

<sup>12</sup> Second Decision, KSC-BC-2020-06/F01864, para.92.

<sup>13</sup> Second Decision, KSC-BC-2020-06/F01864, para.83.

<sup>14</sup> See e.g. Fourth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01716, 8 August 2023, Confidential, para.32; Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01603, 14 June 2023, Confidential, paras.179, 217.

<sup>15</sup> 072659-TR-ET Part 1, pp.17, 18, 20.

<sup>16</sup> 072659-TR-ET Part 1, p.19; SITF00316405-00316409 RED, p.SITF00316406. See also ICTY, *Prosecutor v. Aleksovski*, IT-95-14/1-AR73, Decision on Prosecutor's Appeal on Admissibility of Evidence, Appeals

mistreatment that W00742 could see on [REDACTED] body,<sup>17</sup> and his overall condition after release.<sup>18</sup>

6. While admission of evidence under Rule 155 is not conditioned on the existence of corroboration,<sup>19</sup> W00742's account indeed aligns with and is supported by the admitted evidence of [REDACTED].<sup>20</sup> Further, as indicated in the Motion,<sup>21</sup> evidence can also be supported by a pattern of conduct, such as repeated commission of similar acts in the same or other locations.<sup>22</sup> The evidence already presented in the case indicates that during the Indictment period, including in mid-June 1999 when the crimes against [REDACTED] occurred, the KLA targeted Kosovar Serbs and other opponents, throughout Kosovo,<sup>23</sup> and the *modus operandi* of the perpetrators closely resembled that in the case of [REDACTED]. Records of crimes committed under similar circumstances and for comparable reasons at different locations within the same time period thus further support W00742's evidence.<sup>24</sup> W00742's evidence should therefore be available for holistic assessment by the Panel at the conclusion of the trial.

## B. W04324

7. *W04324's Proposed Evidence is prima facie reliable.* The Response ignores previous findings of the Panel, including that admissibility 'does not require proof of reliability in relation to each and every fact or circumstance in relation to which the witness gives

---

Chamber, 16 February 1999, para.15 ('[W]hether the hearsay evidence is "first-hand" or more removed, [is] also relevant to the probative value of the evidence').

<sup>17</sup> 072659-TR-ET Part 1, p.19-20; SITF00316405-00316409 RED, p.SITF00316407.

<sup>18</sup> 072659-TR-ET Part 1, p.20.

<sup>19</sup> See e.g. Decision on Prosecution Fourth Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F02283, 3 May 2024, Confidential, para.14.

<sup>20</sup> [REDACTED]. For corroboration regarding the key parts of W00742's account, see in particular [REDACTED].

<sup>21</sup> Seventh Motion, KSC-BC-2020-06/F02952, para.9, fn.33.

<sup>22</sup> See e.g. ICTY, Prosecutor v. Popović et al., IT-05-88-A, Judgement, 30 January 2015, paras 101-104.

<sup>23</sup> See e.g. [REDACTED].

<sup>24</sup> See e.g. [REDACTED]. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, Sections III(S)-(DD).

evidence’,<sup>25</sup> as the ‘weight will be accounted for when assessing the evidence at the end of the trial’.<sup>26</sup>

8. Nonetheless, not only is the evidence relating to the alleged killing by the KLA of [REDACTED] ‘Serbian collaborators’ [REDACTED].<sup>27</sup> The minor discrepancies between the two statements have already been addressed with W04324 and clarified by the witness.<sup>28</sup> In any event, such submissions do not render evidence inadmissible; rather, they may be considered at the conclusion of the trial during the Panel’s holistic assessment of the evidence.<sup>29</sup>

9. The Defence contention that W04324 is merely speculating as to the presence of Serbs amongst the prisoners is inapposite given his unambiguous testimony that [REDACTED] the persons held in [REDACTED] were ‘both Serbs and Albanians’.<sup>30</sup> Similarly, a plain reading of W04324’s evidence shows that he recognised [REDACTED] at the time of his detention. W04234 states that [REDACTED] looking as though, as with the other prisoners, he had been beaten.<sup>31</sup> [REDACTED].<sup>32</sup> The Defence claim that these accounts do not corroborate each other fails.

10. Rule 155 is specifically intended to address the evidence of witnesses who are unavailable and therefore cannot be cross-examined. To the extent the opportunity for cross-examination is relevant to prejudice at the admission stage,<sup>33</sup> the Defence has

---

<sup>25</sup> Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01603, 14 June 2023, Confidential (‘First Decision’) para.64.

<sup>26</sup> Decision on Prosecution Second Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01864, 17 October 2023, Confidential, para.58.

<sup>27</sup> See [REDACTED].

<sup>28</sup> SITF00176851-SITF00176855 RED, p.SITF00176853.

<sup>29</sup> Second Decision, KSC-BC-2020-06/F01864, para.48.

<sup>30</sup> Seventh Motion, KSC-BC-2020-06/F02952, para.12, fn.41.

<sup>31</sup> SITF00369389-SITF00369438 RED, pp.SITF00369415-00369416. *Contra* Response, KSC-BC-2020-06/F02985, paras.18, 20.

<sup>32</sup> [REDACTED].

<sup>33</sup> See e.g. First Decision, KSC-BC-2020-06/F01603, para.18.

had several opportunities to cross-examine witnesses who testify on matters related to the evidence of W04324 [REDACTED], as set out in the Motion<sup>34</sup> and below.

11. For example, W04324's evidence is corroborated by [REDACTED], who the Defence recently had an opportunity to cross-examine in court.<sup>35</sup> In line with what W04324 witnessed during the period, [REDACTED].<sup>36</sup>

12. Further, contrary to Defence arguments, the evidence of [REDACTED] is clearly corroborative of that of W04324 and establishes the presence of a KLA detention centre at [REDACTED], where victims were mistreated.<sup>37</sup> In line with the evidence of W04324, [REDACTED].<sup>38</sup>

13. While the Motion refers to multiple witnesses who corroborate W04324, the list is not exhaustive. Another SPO witness, [REDACTED], was detained and beaten by the KLA at [REDACTED] during the time period that W04324 was visiting the prison.<sup>39</sup> The same witness testified that [REDACTED].<sup>40</sup> Similarly, [REDACTED] was imprisoned in [REDACTED], and could hear the sounds of others being beaten at the [REDACTED] detention site.<sup>41</sup> [REDACTED] was also detained and beaten at [REDACTED], along with family members who were later killed.<sup>42</sup> Not only do each of these witnesses corroborate W04324's Proposed Evidence, they have all been available for cross-examination by the Defence.<sup>43</sup>

---

<sup>34</sup> Seventh Motion, KSC-BC-2020-06/F02952, para.16.

<sup>35</sup> Transcript, [REDACTED].

<sup>36</sup> Transcript, [REDACTED].

<sup>37</sup> See eg. [REDACTED]. *Contra* Response, KSC-BC-2020-06/F02985, para.18.

<sup>38</sup> [REDACTED].

<sup>39</sup> P00211, pp.SITF00367771-00367773, SITF00367780.

<sup>40</sup> P00211, p.SITF00367769.

<sup>41</sup> Transcript, 11 July 2024, pp.18130, p.18151.

<sup>42</sup> Transcript, 25 September 2023, pp.8203, T,8215-8217.

<sup>43</sup> [REDACTED], whose evidence has been admitted under Rule 153, was also detained and beaten at the KLA [REDACTED]. See [REDACTED].

14. *Reasonable diligence has been established.* Finally, the Defence argument that the SPO failed to exercise reasonable diligence to secure the witness's appearance is unavailing. Prior to the Motion, the SPO exhausted reasonable efforts by first engaging with the witness on multiple occasions, before requesting the assistance of the relevant authorities and examining the prospect of compelling the witness, as a last resort.<sup>44</sup> Rather than challenging the outcome of these efforts and W04324's resulting unavailability, the Defence focuses on the timing of the change in W04324's testimony mode, which is irrelevant.<sup>45</sup>


### III. CLASSIFICATION

15. This motion is classified as confidential as it contains information concerning witnesses with protective measures and/or whose identities are not public at this time.

### IV. RELIEF REQUESTED

16. For the foregoing reasons and those given previously, the Panel should grant the Motion.

**Word Count: 1,883**



**Kimberly P. West**

**Specialist Prosecutor**

Tuesday, 11 March 2025

At The Hague, the Netherlands.

---

<sup>44</sup> Seventh Motion, KSC-BC-2020-06/F02952, para. 19.

<sup>45</sup> Response, KSC-BC-2020-06/F02985, paras 25-30. In any event, and logically, the SPO could not notify its intention to submit the evidence of W04324 in writing before the outcome of its efforts to secure the witness's testimony were known; until that time, the SPO intended to call the witness to testify before the Panel and the Defence has not claimed or substantiated any prejudice.