



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:** 17 March 2025

**Language:** English

**Classification:** Confidential

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**Prosecution reply relating to motion to admit Pashtrik Zone documents (F02944)**

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1. The Response,<sup>1</sup> once again,<sup>2</sup> repeats prior objections to broad categories of evidence, which have already been considered and dismissed by the Panel, and misrepresents and ignores submissions in the Motion<sup>3</sup> and the record in this case.
2. Contrary to Defence submissions,<sup>4</sup> and consistent with the Law,<sup>5</sup> Rules,<sup>6</sup> Conduct of Proceedings Order,<sup>7</sup> and this Panel's prior decisions,<sup>8</sup> there is no requirement that documents be tendered through a witness<sup>9</sup> and the admission of documents through the bar table is not, in and of itself, prejudicial. To consider otherwise would render relevant parts of the legal framework meaningless, and undermine the fairness and expeditiousness of the proceedings, in particular in this complex multiple-Accused case.<sup>10</sup> It is neither practicable, nor in the interests of justice for all relevant, *prima facie* authentic documentary evidence to be tendered through a witness. In this respect, the

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<sup>1</sup> Joint Defence Response to 'Prosecution Motion for Admission of Pashtrik Zone Documents (F02944)', KSC-BC-2020-06/F02991, 7 March 2025, Confidential ('Response').

<sup>2</sup> See Prosecution reply relating to its motion to admit Llap Zone documents (F02138), KSC-BC-2020-06/F02266, 25 April 2024; Prosecution reply relating to its motion to admit Drenica Zone documents (F02248), KSC-BC-2020-06/F02306, 13 May 2024; Prosecution reply relating to its motion to admit Shala Zone and Karadak Zone documents F02468, KSC-BC-2020-06/F02539, 9 September 2024; Prosecution reply relating to motion to admit Nerodime Zone documents (F02667), KSC-BC-2020-6/F02746, 22 November 2024, Confidential ('Nerodime Reply').

<sup>3</sup> Prosecution motion for admission of Pashtrik Zone documents, KSC-BC-2020-06/F02944, 18 February 2025, Confidential ('Motion').

<sup>4</sup> Response, KSC-BC-2020-06/F02991, paras 2, 5-7, 23, 33-40.

<sup>5</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'), Articles 37, 40.

<sup>6</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'), Rules 137-138. All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>7</sup> Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), para.60.

<sup>8</sup> See e.g. Fifth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01832, 3 October 2023 ('Fifth Decision'), paras 63-64, 67-68, 71-75; Corrected Version of Sixth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01983/COR, 5 December 2023 ('Sixth Decision'), paras 83-89; Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request, KSC-BC-2020-06/F02951, 21 February 2025 ('Llap Decision'), para.21.

<sup>9</sup> The Rules do not prescribe that exhibits should be tendered in a particular manner. See Decision on Prosecution Request for Admission of Documents Shown to W04739, KSC-BC-2020-06/F02293, 8 May 2024, Confidential ('W04739 Decision'), paras 9-10.

<sup>10</sup> See, similarly, ICTY, *Prosecutor v. Milutinović et al.*, IT-05-87-T, Decision on Lukić defence Motions for Admission of Documents From Bar Table, 12 June 2008, para.10 (and sources cited therein).

Motion demonstrates how each Proposed Exhibit:<sup>11</sup> (i) fits into the Prosecution's case; and (ii) is consistent with, complementary to, and corroborative of testimony, adjudicated facts, and other admitted and Proposed Exhibits.<sup>12</sup>

3. The Specialist Prosecutor's Office ('SPO') has put to and tendered through witnesses a significant number of contemporaneous KLA documents, including documents relating to the Pashtrik Zone.<sup>13</sup> Such witnesses have contextualised, commented on, and/or authenticated them. Further, corroboration and/or contextualisation are factors relevant to the Panel's final assessment of the evidence, not admission, provided the Rule 138 requirements are otherwise met.<sup>14</sup>

4. Concerning handwritten documents,<sup>15</sup> compilations,<sup>16</sup> documents purportedly central to the SPO's case,<sup>17</sup> documents provided by the Serbian authorities,<sup>18</sup> and documents allegedly without full information as to their author, provenance, and chain of custody,<sup>19</sup> the Defence largely repeats already considered and rejected objections to these categories of evidence. Each Proposed Exhibit must be assessed on

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<sup>11</sup> See Motion, KSC-BC-2020-06/F02944, para.1, defining the 'Proposed Exhibits'.

<sup>12</sup> *Contra* Response, KSC-BC-2020-06/F02991, paras 15, 19.

<sup>13</sup> See e.g. Nerodime Reply, KSC-BC-2020-6/F02746, para.3, fn.12 (providing a non-exhaustive list of such exhibits). See also Nerodime Reply, KSC-BC-2020-6/F02746, fn.27; para.6 below (concerning Proposed Exhibits that are now admitted).

<sup>14</sup> See e.g. Sixth Decision, KSC-BC-2020-06/F01983/COR, para.129; Llap Decision, KSC-BC-2020-06/F02951, paras 21, 23.

<sup>15</sup> Compare Response, KSC-BC-2020-06/F02991, para.17 with, *inter alia*, Second Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01596, 9 June 2023, para.90; Sixth Decision, KSC-BC-2020-06/F01983/COR, paras 100-106; Llap Decision, KSC-BC-2020-06/F02951, para.23.

<sup>16</sup> Compare Response, KSC-BC-2020-06/F02991, para.2 with Llap Decision, KSC-BC-2020-06/F02951, para.24.

<sup>17</sup> Compare e.g. Response, KSC-BC-2020-06/F02991, paras 6-7 with Sixth Decision, KSC-BC-2020-06/F01983/COR, para.92; Llap Decision, KSC-BC-2020-06/F02951, para.21.

<sup>18</sup> Compare e.g. KSC-BC-2020-06/F02991/A01, items 51-56 with Decision on Admission of Documents Shown to W04769, KSC-BC-2020-06/F01963, 27 November 2023, para.28 (and sources cited therein).

<sup>19</sup> Compare e.g. Response, KSC-BC-2020-06/F02991, paras 17, 32, KSC-BC-2020-06/F02991/A01, items 127, 129, 140-143, 147, 150, 152, 189-192, 194-195, 201-203, 227-228 with Llap Decision, KSC-BC-2020-06/F02951, para.23. Further, contrary to Defence submissions, numerous documents purportedly 'unattributed', do, in fact, identify the issuing entity or person. Compare e.g. Response, KSC-BC-2020-06/F02991, para.17 with Proposed Exhibits 10, 17-23, 78, 95, 107, 268, 292, 295.

an item-by-item basis against the admissibility criteria, which apply to all categories of Proposed Exhibits.<sup>20</sup>

5. There has been no prejudice or unfairness.<sup>21</sup> The Proposed Exhibits – and other contemporaneous KLA documents tendered in past bar table motions – have long been disclosed and on the exhibit list.<sup>22</sup> The Defence has also been provided adequate opportunity to respond to bar table motions, and use such documents with witnesses. The Defence will also have the opportunity, in due course, to tender and elicit evidence on the Proposed Exhibits as part of its case(s) and make submissions on their ultimate weight.<sup>23</sup> In this respect, submissions throughout the Response rely on evidence not tendered for admission,<sup>24</sup> make unsubstantiated assertions of prejudice caused by the removal of certain witnesses from the witness list,<sup>25</sup> and should be disregarded.

6. Finally, the SPO: (i) seeks leave to replace the tendered translation of Proposed Exhibit 155 with its revised version (U001-8094-U001-8117-ET Revised); and (ii) withdraws its request in relation to Proposed Exhibits 130, 146, 156, 167, 169, 206, and 231, which have been admitted as Exhibits P02076, P02078, P02045, P02044, P02019, and 1D00020, pp.11-12, respectively.<sup>26</sup>

7. For the reasons given above and previously, the Motion, taking into account paragraph 6 above, should be granted. Further, as it does not contain any confidential information,<sup>27</sup> this reply should be reclassified as public.

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<sup>20</sup> See, similarly, Sixth Decision, KSC-BC-2020-06/F01983/COR, para.92.

<sup>21</sup> *Contra* Response, KSC-BC-2020-06/F02991, para 34, 40.

<sup>22</sup> See, similarly, Decision on Prosecution Motion for Admission of Drenica Zone Documents, KSC-BC-2020-06/F02967, 26 February 2025, Confidential ('Drenica Decision'), para.14.

<sup>23</sup> See, similarly, Drenica Decision, KSC-BC-2020-06/F02967, paras 14, 34, 42, 51, 62.

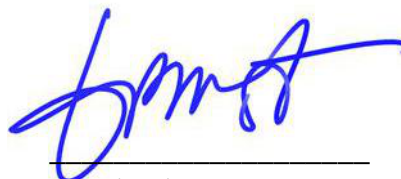
<sup>24</sup> See e.g. Response, KSC-BC-2020-06/F02991, paras 24-32, 41-49.

<sup>25</sup> See e.g. Response, KSC-BC-2020-06/F02991, paras 3-4, 17, 24-32. The Defence does not explain why or how it could not cross-examine other witnesses on these matters or substantiate any prejudice. See, similarly, Drenica Decision, KSC-BC-2020-06/F02967, para.15.

<sup>26</sup> The latter is a duplicate of Proposed Exhibit 231.

<sup>27</sup> The Court Management Unit returned the initial, publicly classified version of this filing because there was no public redacted version of the Response. It was therefore resubmitted as confidential.

**Word count: 1114**



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**Kimberly P. West**

**Specialist Prosecutor**

Monday, 17 March 2025

At The Hague, the Netherlands.