



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: 14 April 2025

Language: English

Classification: Public

Prosecution motion for admission of documents
with confidential Annexes 1-4

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ Rules 118(2) and 137-138 of the Rules,² and the Conduct of Proceedings Order,³ the Specialist Prosecutor's Office ('SPO') requests: (i) the addition of video 065554-01 and its corresponding transcripts⁴ to the Exhibit List⁵ to support the *prima facie* authenticity of another tendered document;⁶ and (ii) the admission of a number of residual documents,⁷ which, to the extent possible, are organised thematically and chronologically in Annexes 1-3 ('Proposed Exhibits').⁸ The Proposed Exhibits are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.⁹

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'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

³ Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 60-62. Pursuant to paragraph 61 of the Conduct of Proceedings Order, the Proposed Exhibits were previously sent to the Defence for *inter partes* consultation. The Defence indicated its intention to respond to the motion once filed.

⁴ 065554-01-TR; 065554-01-TR-ET. The video and its Albanian and English transcripts are collectively referred to herein as the 'Requested Amendment'.

⁵ ANNEX 1 to Prosecution submission of amended exhibit list, KSC-BC-2020-06/F03090/A01, 7 April 2025, Confidential ('Exhibit List').

⁶ See Annex 1: items 83-84; Section II(D) below.

⁷ This includes certain residual items falling into categories concerned by previous bar table motions. Further, as indicated where relevant in Annexes 1-3, a number of Proposed Exhibits were previously admitted in part or denied admission without prejudice on the basis that further context or information was necessary. Such context and information is provided in this filing and Annexes 1-3.

⁸ Annexes 1-3 include specific indicia of the *prima facie* authenticity, relevance, and probative value of each Proposed Exhibit. They also indicate the relevant Indictment paragraphs for each Proposed Exhibit. See Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01409, Confidential, 31 March 2023 ('First Decision'), para.22. Annex 4 links the abbreviations used in the 'Indictment Primary Paragraphs' column of Annexes 1-3 with the primary Indictment paragraph(s) to which each item relates. See Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'). Annex 4 also defines other abbreviations and short names used in Annexes 1-3 and this filing.

⁹ The applicable law has been set out in prior decisions. See e.g. First Decision, KSC-BC-2020-06/F01409, paras 8-13.

II. SUBMISSIONS

2. The Proposed Exhibits – which include media articles and interviews,¹⁰ videos,¹¹ book excerpts,¹² contemporaneous international¹³ and Serbian¹⁴ reports, KLA documents,¹⁵ maps,¹⁶ and documents relevant to the status, death, and/or mistreatment of charged victims¹⁷ – corroborate and complement witness and documentary evidence, and adjudicated facts.¹⁸

3. Taken together, this body of evidence demonstrates: (i) the high level of organisation of the KLA and PGoK during the Indictment period; (ii) that KLA members in the Zones and KLA bases in northern Albania acted under the authority of, and pursuant to, the instructions of the Accused, General Staff, and, after its formation, PGoK; and (iii) that the Accused and other JCE members shared the common criminal purpose, which they implemented personally and through the structures in place. The Proposed Exhibits also corroborate and complement other evidence and adjudicated facts concerning the charged crimes, the armed conflict and widespread and systematic attack against the civilian population, the Accused's effective control, including both directly and through the structures in place, the practical assistance, encouragement, and/or moral support the Accused provided to the perpetrators of the charged crimes, and the Accused's and other JCE members' knowledge and intent.

¹⁰ See Annex 1: Section I. *See also* Annex 2: items 1-6.

¹¹ See Annex 1: Section II.

¹² See Annex 2.

¹³ See Annex 3: Section I. *See also* Annex 2: item 17.

¹⁴ See Annex 3: Section II. *See also* Annex 3: Section III, items 51, 64.

¹⁵ See Annex 3: Section III.

¹⁶ See Annex 3: Section IV, items 73-74.

¹⁷ See Annex 3: Section IV, items 75-80.

¹⁸ This filing primarily refers to the Proposed Exhibits. Corroborating and complementary evidence and adjudicated facts are set out in detail in Annexes 1-3. Each citation to an 'item' in this filing should therefore be read to include the corroborating and complementary evidence cited in Annexes 1-3.

A. THE PROPOSED EXHIBITS ARE RELEVANT

4. Proposed Exhibits, considered together with corroborating and complementary evidence, show that the Accused and General Staff, including through relevant structures: (i) oversaw and directed – including through its policies, regulations, orders, and decisions – the organisation, operations, activities, and supply of the General Staff directorates, PGoK ministries, and subordinate structures;¹⁹ (ii) regulated and controlled communication, including of KLA commanders and representatives, with the media, other Kosovo political and armed groups, and internationals;²⁰ (iii) established structures to administer ‘the civilian life of the population in all its aspects’;²¹ and (iv) targeted Opponents.²²

5. Among the Proposed Exhibits are contemporaneous public statements of the Accused, other KLA/PGoK officials, and LPK and KLA media: (i) recognising the authority of the KLA, General Staff, and PGoK;²³ (ii) encouraging and/or demanding financial, military, and other support for the KLA;²⁴ (iii) denouncing and threatening persons associated with the LDK, alleged collaborators, persons of Roma and other ethnicities, and other Opponents;²⁵ and (iv) acknowledging attacks against Opponents, denying crimes, and asserting compliance with international humanitarian and human rights law obligations.²⁶

¹⁹ Annex 1: items 1-2, 13, 30-31, 35, 38, 41, 43-44, 65-69, 71-74, 78-79, 81-84, 86, 96; Annex 2: items 2, 7-8, 10-14; Annex 3: items 5-6, 8, 54.

²⁰ Annex 1: items 1, 14, 23, 25, 32, 37, 43, 65, 67-69, 71, 81-82, 89, 92-93; Annex 2: items 1-8.

²¹ Annex 1: items 3. *See also* Annex 1: items 55, 57-58, 60, 62; Annex 2: item 7; Annex 3: items 8-10, 12, 14.

²² *See e.g.* Annex 1: items 65, 68, 70-71, 75, 82-83; Annex 2: items 1, 11; Annex 3: items 54, 60. The term ‘Opponents’ is defined in paragraph 32 of the Indictment.

²³ Annex 1: items 1, 6, 9, 16, 20, 23-26, 29-30, 32, 37, 40, 45-47, 54, 57, 63, 77, 81, 85, 90, 94, 96. *See also* Annex 1: items 7, 39, 49.

²⁴ Annex 1: items 9, 21, 24, 28, 30-31, 45, 81, 83. *See also* Annex 3: item 66.

²⁵ Annex 1: items 1, 4-5, 13, 16, 18, 21-22, 30-31, 35, 54, 81, 90-91. *See also* Annex 1: item 27.

²⁶ *See e.g.* Annex 1: items 18-21, 29, 83. *See also* Annex 1: item 76.

6. Other Proposed Exhibits are relevant to:

- (i) organisation, discipline, and operations in the Zones and at KLA bases in northern Albania,²⁷ including in and around charged crime sites at Llapushnik/Lapušnik,²⁸ Malishevë/Mališevo,²⁹ Likoc/Likovac,³⁰ Cahan,³¹ Kukës,³² Prizren,³³ and Taslixhe/Taslidže,³⁴
- (ii) the existence of an armed conflict throughout the Indictment period, particularly with regard to the periods contested by the Defence,³⁵ namely, from at least March to October 1998³⁶ and 10 June to September 1999,³⁷
- (iii) the status, detention, mistreatment, and death of charged victims,³⁸
- (iv) a pattern and policy of targeting, detaining, and mistreating Opponents,³⁹
- (v) notice of crimes⁴⁰ and related obligations under international humanitarian and human rights law;⁴¹ and

²⁷ See e.g. Annex 1: items 30, 35, 73; Annex 2: items 7, 12, 14; Annex 3: items 52, 55, 57-59, 65, 67-69.

²⁸ Annex 1: items 8, 9, 18; Annex 3: item 70.

²⁹ Annex 2: item 12; Annex 3: item 3.

³⁰ Annex 2: item 12; Annex 3: item 62.

³¹ Annex 3: items 71-72.

³² Annex 1: items 74, 85; Annex 3: item 77.

³³ Annex 3: items 4, 7.

³⁴ Annex 2: item 18.

³⁵ The SPO and Defence have agreed that 'an armed conflict not of an international character existed in Kosovo between 30 November 1998 and 9 June 1999.' See ANNEX 1 to Prosecution updated report concerning agreed facts, KSC-BC-2020-06/F02573/A01, 13 September 2024, Confidential, Fact JD1.

³⁶ Annex 1: items 19-21, 23, 26, 30, 65-69, 87; Annex 2: items 1, 17; Annex 3: items 1-2, 16-24, 26-45, 47-48.

³⁷ Annex 1: items 47-49, 53, 59, 61, 64, 97; Annex 3: items 4, 6-9, 11-12, 14-15. These Proposed Exhibits, considered collectively with other evidence on the record, demonstrate that no peaceful settlement had been achieved until the KLA demilitarised in September 1999.

³⁸ Annex 1: items 36, 50, 52, 80, 95; Annex 3: items 7, 13, 49, 56, 75-80.

³⁹ Annex 1: items 11, 17, 29, 51, 56, 88; Annex 2: items 15, 17; Annex 3: items 2, 7, 10-11, 25, 46, 56, 58, 62.

⁴⁰ Annex 1: items 11, 17, 36, 50-52, 56, 60, 62, 80, 88, 95; Annex 2: item 17; Annex 3: items 2, 10, 46, 56.

⁴¹ Annex 2: item 17; Annex 3: item 53.

(vi) the authenticity and probative value of other admitted and tendered evidence.⁴²

B. THE PROPOSED EXHIBITS ARE *PRIMA FACIE* AUTHENTIC AND RELIABLE

7. The Proposed Exhibits contain multiple indicia of authenticity, as indicated for each in Annexes 1-3. While proof of provenance or authorship is not required,⁴³ many Proposed Exhibits identify the source and bear official headers, signatures, reference numbers, stamps, seals, and insignia.⁴⁴

8. In addition to such formalities, other indicia of authenticity can be seen when the Proposed Exhibits are viewed holistically. For example, as reflected in detail in Annexes 1-3: (i) many of the Proposed Exhibits, including from different periods of time, were signed, prepared, and issued by, and/or concern the same persons or matters; (ii) administrative, operational, and intelligence records track the same and similar information, often using comparable or identical formatting, and standard templates; and (iii) all Proposed Exhibits are interconnected with, complementary to, and/or corroborated by witness evidence and other admitted and Proposed Exhibits.

C. THE PROBATIVE VALUE OF THE PROPOSED EXHIBITS IS NOT OUTWEIGHED BY ANY PREJUDICE

9. As the Proposed Exhibits are *prima facie* authentic, reliable, and relevant, they have probative value. No prejudice outweighs such probative value. The Defence has had, and/or will have, ample opportunity to address and make submissions concerning the Proposed Exhibits, put their contents to witnesses, and lead evidence

⁴² See e.g. Annex 1: items 10, 12-13, 15, 31, 84; Annex 2: items 1-6, 9, 15; Annex 3: items 51-53, 64.

⁴³ See e.g. Decision on Prosecution Motion for Admission of Pashtrik Zone Documents, KSC-BC-2020-06/F03070, 1 April 2025 ('Pashtrik Decision'), para.14.

⁴⁴ See, similarly, Corrected Version of Sixth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01983/COR, 5 December 2023 ('Sixth Decision'), paras 85, 111, 119.

to the contrary.⁴⁵ At the end of the trial, the Panel will assess what weight to assign any admitted exhibits in light of the entire record.⁴⁶

D. THE REQUESTED AMENDMENT SHOULD BE AUTHORISED

10. The Requested Amendment is primarily relevant because it supports the *prima facie* authenticity and probative value of another Proposed Exhibit, namely, 065539-01, which is an interview conducted by an identified journalist around mid-March 1998 with two masked General Staff members, including one called 'Anton'.⁴⁷ That 'Anton' was a pseudonym of KLA Commander Azem SYLA is corroborated by other evidence.⁴⁸ Further, the Requested Amendment, which consists of an excerpt from a televised interview with Xhavit HALITI by the same journalist, confirms that the two masked General Staff members appearing in 065539-01 are Xhavit HALITI and Azem SYLA and provides relevant context.⁴⁹

11. Considering that the Panel will only consider tendered or admitted evidence when assessing admissibility,⁵⁰ there is good cause for the Requested Amendment. While the Requested Amendment could have been made earlier, its consideration in the context of the request to admit 065539-01 through the bar table enables holistic assessment of the *prima facie* authenticity and probative value of 065539-01, together with other corroborating and complementary evidence cited in Annex 1.⁵¹

12. Finally, there is limited, if any, prejudice: (i) the Requested Amendment has been disclosed since March 2023;⁵² (ii) the excerpt is approximately nine minutes and the corresponding English and Albanian versions of the transcript are each three

⁴⁵ See, similarly, Sixth Decision, KSC-BC-2020-06/F01983/COR, paras 32, 87, 97, 105, 113, 121.

⁴⁶ Sixth Decision, KSC-BC-2020-06/F01983/COR, para.129.

⁴⁷ See Annex 1: item 83.

⁴⁸ See e.g. Annex 1: item 2, p.42.

⁴⁹ See Annex 1: item 84.

⁵⁰ See e.g. Pashtrik Decision, KSC-BC-2020-06/F03070, para.20.

⁵¹ See Annex 1: items 84-84.

⁵² Disclosure 722 (Rule 103).

pages;⁵³ (iii) it relates to known aspects of the SPO's case and evidence already on the Exhibit List; and (iv) the Defence will have the opportunity to respond to this request and, if the Requested Amendment is granted, challenge the evidence during any Defence case(s) and make submissions on its ultimate weight and probative value.

III. CLASSIFICATION

13. Annexes 1-4 are confidential to give effect to existing protective measures and to safeguard the interests and privacy of third parties. For each Proposed Exhibit, the proposed classification is indicated in Annex 1, with appropriate justifications.⁵⁴

IV. RELIEF REQUESTED

14. For the foregoing reasons, the Panel should: (i) authorise the Requested Amendment; and (ii) admit the Proposed Exhibits.

Word count: 2128



Kimberly P. West

Specialist Prosecutor

Monday, 14 April 2025

At The Hague, the Netherlands.

⁵³ 065554-01; 065554-01-TR; 065554-01-TR-ET.

⁵⁴ See First Decision, KSC-BC-2020-06/F01409, para.22.