



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

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Public Redacted Version of 'Prosecution reply relating to motion for admission of General Staff and Provisional Government of Kosovo documents (F03065)'

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I. INTRODUCTION

1. The Response,¹ once again,² 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 Motion³ and the record in this case.

II. SUBMISSIONS

2. The Motion demonstrates how each Proposed Exhibit: (i) fits into the Prosecution's case; (ii) is consistent with, complementary to, and corroborative of testimony, adjudicated facts, and other admitted and Proposed Exhibits;⁴ and (iii) satisfies the admissibility criteria. In this respect, the Proposed Exhibits are properly tendered pursuant to Rule 138.⁵

¹ Joint Defence Response to Prosecution motion for admission of General Staff and Provisional Government of Kosovo documents (F03065), KSC-BC-2020-06/F03145, 24 April 2025, Confidential ('Response').

² See Prosecution reply relating to motion to admit Dukagjin Zone documents (F02997), KSC-BC-2020-06/F03092, 7 April 2025, Confidential; Prosecution reply to motion to admit Pashtrik Zone documents (F02944), KSC-BC-2020-06/F03030, 17 March 2025; 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'); Prosecution reply relating to motion to admit Dukagjin Zone documents (F02997), KSC-BC-2020-06/F03092, 7 April 2025, Confidential.

³ Prosecution motion for admission of General Staff and Provisional Government of Kosovo documents, KSC-BC-2020-06/F03065, 31 March 2025, Confidential ('Motion'). See also para.1 (defining the 'Proposed Exhibits').

⁴ *Contra* Response, KSC-BC-2020-06/F03145, paras 15, 19. In any event, corroboration and/or contextualisation are factors relevant to the Panel's final assessment. See e.g. Decision on Prosecution Motion for Admission of Pashtrik Documents, KSC-BC-2020-06/F03070, 1 April 2025 ('Pashtrik Decision'), para.18; Corrected Version of Sixth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01983/COR, 5 December 2023 ('Sixth Decision'), para.129; Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request, KSC-BC-2020-06/F02951, 21 February 2025 ('Llap Decision'), paras 21, 23.

⁵ In particular, none of the Proposed Exhibits are statements within the meaning of Rules 153-155. See Llap Decision, KSC-BC-2020-06/F02951, para.25. *Contra* e.g. KSC-BC-2020-06/F03145/A03, items 35, 38.

3. Concerning unsigned, undated,⁶ template, and draft documents,⁷ purportedly unattributed notebooks,⁸ and documents allegedly without full information as to their author, provenance, and chain of custody,⁹ the Defence largely repeats already considered and rejected objections to these categories of evidence.¹⁰ Where one type of indicia is lacking for a Proposed Exhibit, *prima facie* authenticity and reliability is established in the Motion by reference to other indicia.¹¹ Notably, multiple draft documents among the Proposed Exhibits were admitted or are tendered in their executed form,¹² and even those that are not, are relevant to the decision-making process, organisation, and standardisation of procedures.¹³

4. Contrary to Defence submissions,¹⁴ the Specialist Prosecutor's Office ('SPO') relies on admitted and tendered evidence, including from the Accused's own statements, in support of submissions on the Accused's knowledge or authorship, in

⁶ Response, KSC-BC-2020-06/F03145, para.12.

⁷ Response, KSC-BC-2020-06/F03145, paras 23-25, 27.

⁸ Response, KSC-BC-2020-06/F03145, para.13.

⁹ Response, KSC-BC-2020-06/F03145, paras 13-14, 20, 23-32.

¹⁰ See e.g. Llap Decision, KSC-BC-2020-06/F02951, para.23; Pashtrik Decision, KSC-BC-2020-06/F03070, para.14.

¹¹ Pashtrik Decision, KSC-BC-2020-06/F03070, para.14. See e.g. KSC-BC-2020-06/F03145/A02, items 15, 64-65, 102, 107, 109-111, 112-116, 122, 132, 137-139 (containing a KLA logo/stamp/seal); KSC-BC-2020-06/F03145/A02, items 88, 142, 146, 147, 149, 151-152, 157-161, 163, 165, 172, 176-177, 179, 186; KSC-BC-2020-06/F03145/A03, items 60-67, 99-100 (which are signed and/or dated). Each Proposed Exhibit must be assessed on an item-by-item basis against the admissibility criteria, which apply to all categories of Proposed Exhibits. See, similarly, Sixth Decision, KSC-BC-2020-06/F01983/COR, para.92.

¹² See e.g. template/draft SPOE00232243-00232243 and executed version SPOE00228821-SPOE00228821, both tendered in KSC-BC-2020-06/F03065/A01, items 20 and 15; template/draft SPOE00231912-00231912 and executed versions U017-3161-U017-3161 and U000-5391-U000-5391, tendered in KSC-BC-2020-06/F03065/A01, items 18, 25 and 21; template/draft P00615 and executed version SPOE00225258-SPOE00225259, tendered in KSC-BC-2020-06/F03065/A01, item 12; template/draft SPOE00231975-00231975 and executed versions SPOE00225280-SPOE00225280, SPOE00225267-SPOE00225267, SPOE00225281-SPOE00225281, tendered in KSC-BC-2020-06/F03065/A02, item 123 and KSC-BC-2020-06/F03065/A01, items 22, 23, 13; template/draft SPOE00232870-00232870, tendered in the KSC-BC-2020-06/F03065/A01, item 29 and executed version P01424. *Contra* Response, KSC-BC-2020-06/F03145, paras 28-32.

¹³ See, similarly, Pashtrik Decision, KSC-BC-2020-06/F03070, para.25 (concerning templates and the 'breadth and spread of such documents across the KLA').

¹⁴ Response, KSC-BC-2020-06/F03145, paras 14, 25.

addition to relying on the place of seizure.¹⁵ Moreover, that the USB (from which 13 of the Proposed Exhibits were recovered) was found in Jakup KRASNIQI's wallet is recorded in the search report,¹⁶ and on the photograph of the relevant evidence bag, which has been disclosed to the Defence.¹⁷ The Defence submission that it was first notified of this 'unsupported' fact through the Motion is therefore incorrect.¹⁸

5. Contrary to Defence submissions,¹⁹ and consistent with this Panel's prior decisions,²⁰ there is no requirement that documents be tendered through a witness²¹ and the admission of documents through the bar table is not, in and of itself, prejudicial. As set out throughout Annexes 1-3 to the Motion, the SPO has put to and tendered through witnesses a significant number of contemporaneous General Staff and PGoK documents.²² Such witnesses have contextualised, commented on, and authenticated them. Moreover, the SPO has called witnesses who have provided evidence on the same and similar matters concerned by the Proposed Exhibits, for example, the structure and activities of the General Staff and its directorates, and the

¹⁵ See e.g. KSC-BC-2020-06/F03145/A01, items 1B, 1C, 4A and 4B (drafted by Jakup KRASNIQI, as noted in his book at page U015-8836, P00189/P00189_ET). See also KSC-BC-2020-06/F03145/A01, items 38, 39, 41, 42, 43-45, 48, 57, 58, 59; KSC-BC-2020-06/F03145/A02, items 47, 59.

¹⁶ See KSC-BC-2020-06/F00125/A03, Strictly Confidential and *Ex Parte* (available to the KRASNIQI Defence), p.13, item 13. The SPO does not object to reclassification for access by the other Defence teams.

¹⁷ SPOE00223972-00223972.

¹⁸ Response, KSC-BC-2020-06/F03145, para.26.

¹⁹ Response, KSC-BC-2020-06/F03145, paras 13, 15, 21, 22, 24, 30, 32, 39-41.

²⁰ See e.g. Pashtrik Decision, KSC-BC-2020-06/F03070, para.12, 16; Fifth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01832, 3 October 2023, paras 63-64, 67-68, 71-75; Sixth Decision, KSC-BC-2020-06/F01983/COR, paras 83-89; Llap Decision, KSC-BC-2020-06/F02951, para.21. See also Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023, para.60; Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'), Article 37, 40; Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'), 137-138. All references to 'Rule' or 'Rules' herein refer to the Rules.

²¹ 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, paras 9, 10.

²² By way of non-exhaustive example, these include KLA regulations (P00083; P00008.1); General Staff orders (P01365; P01415; P01105; P00070); special war documents (P01096); KLA logistics documents (P01623; P01400); special unit documents (P01544; P01546); PGoK documents (P01436) and IDs/Registrations forms (P01363). See also fns 24, 36 below; Nerodime Reply, KSC-BC-2020-6/F02746, fn.12.

PGoK and its ministries,²³ including the functioning of the KLA police, its ongoing activities in summer 1999, and the Ministry of Public Order's role.²⁴

6. The probative value of the Proposed Exhibits is not outweighed by any prejudicial effect.²⁵ First, there is no general bar to admission of documents going to central issues in the case,²⁶ to the acts and conduct of the accused (even when signed by one of the Accused), or to the alleged common criminal purpose.²⁷ Second, the Proposed Exhibits have long been disclosed and on the exhibit list.²⁸ The Defence has also been provided adequate opportunity to respond to bar table motions and cross-examine witnesses who provided evidence on matters concerned by and relevant to the Proposed Exhibits, and will 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.²⁹

7. Defence submissions rely on evidence not tendered or admitted,³⁰ and make unsubstantiated and alarmist assertions of prejudice caused by alleged 'cherry-picking' of witnesses, referring to two witnesses not on the witness list (W03805 and W04762).³¹ First, Defence submissions ignore that W03805: (i) acknowledged that

²³ The Defence refers to a number of these witnesses at paragraph 40 of the Response. Multiple other witnesses and certain Accused provided evidence on such topics.

²⁴ Upon being shown MPO ID cards, including one with Rexhep SELIMI's signature, W04868 testified that he saw them in the hands of KLA members and that they were routinely seized (*see* Transcript, 19 August 2024, pp.18580-18581; P01533; P01534). [REDACTED]. SELIMI himself stated that during summer 1999, the Ministry of Public Order issued (and withdrew) identification cards (*see* P00761.8_ET, pp.12-19), and that he cooperated with Nexhmi KRASNIQI, Pashtrik OZ military police commander, and 'presume[d]' that KRASNIQI was his subordinate (*see* P00761.14_ET, pp.17-18). *See also, e.g.,* W02183, W02517.

²⁵ *Contra* Response, KSC-BC-2020-06/F03145, paras 33-45.

²⁶ Pashtrik Decision, KSC-BC-2020-06/F03070, para.12.

²⁷ Fourth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01716, 8 August 2023, Confidential, para.34; Pashtrik Decision, KSC-BC-2020-06/F03070, para.12.

²⁸ *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.

²⁹ *See, similarly,* Drenica Decision, KSC-BC-2020-06/F02967, paras 14, 34, 42, 51, 62.

³⁰ *See e.g.* Response, KSC-BC-2020-06/F03145, para.22; KSC-BC-2020-06/F03145/A03, item 8.

³¹ *See e.g.* Response, KSC-BC-2020-06/ F03145, paras 22, 39.

[REDACTED] could have prepared Proposed Exhibit 107 in Annex 2 and recognised the General Staff's seal;³² and (ii) confirmed that Proposed Exhibit 110 in Annex 2 was sent by the General Staff to Zones.³³ Moreover, the matters that the Defence claims that W03805 and W04762 could have provided evidence on – such as the Communications Directorate and its plans,³⁴ and the role of, and documents signed by, the Minister of Defence³⁵ – were addressed by other witnesses available for cross-examination.³⁶

8. Finally, the Defence argument that certain Serbian excerpts were 'improperly' excluded from the Motion is baseless.³⁷ The SPO tendered the evidence it intends to rely upon, which does not include such excerpts consisting of Serbian translations and summaries of the Albanian originals.³⁸ For the sake of clarity, the SPO will disclose revised translations of the relevant Proposed Exhibits including the Serbian excerpts no later than 8 May 2025, together with a revised translation correcting the name in the header and signature block of Proposed Exhibit 186 in Annex 2.³⁹ The SPO has also reviewed the translations of Proposed Exhibits 6 and 55 in Annex 2 in light of Defence submissions, but does not consider that any revision is required.⁴⁰

³² 089911-TR-ET Part 6, p.7.

³³ 089911-TR-ET Part 6, pp.9-10.

³⁴ Response, KSC-BC-2020-06/F03145, para.22.

³⁵ Response, KSC-BC-2020-06/F03145, para.39.

³⁶ See e.g. Transcript, 2 July 2024, pp.17461-5 (providing evidence about the Communications Directorate, communications plans, and related documents, e.g. P01417, P01418, P01419, and P01421); P01408_ET, p.SPOE00227860; Transcript, 3 July 2024, pp.17508, 17513-5 (concerning the Ministry of Defence and related documents, e.g. P01435, P01436); P01355.11_ET, p.22. See, similarly, Drenica Decision, KSC-BC-2020-06/F02967, para.15 (considering that witnesses were available who could testify on the same matters addressed by witnesses not called, and on, *inter alia*, this basis dismissing the Defence argument that it did not have the opportunity to challenge the Proposed Exhibits by putting their contents to witnesses).

³⁷ *Contra* Response, KSC-BC-2020-06/F03145, paras 18-19.

³⁸ See KSC-BC-2020-06/F03145/A01, items 135 (p.U001-8330), 155 (pp.U001-8675-U001-8676), 189 (pp.U000-7290, U000-7292, U000-7307, U000-7309, U000-7311, U000-7314, U000-7316).

³⁹ KSC-BC-2020-06/F03145/A02, item 186 (U000-7056-U000-7056-ET).

⁴⁰ See KSC-BC-2020-06/F03145/A02, items 6 (SPOE00232057-SPOE00232059-ET), 55 (SPOE00227666-SPOE00227668-ET). The SPO also notes that item 40 (SPOE00229508-SPOE00229508-ET) in KSC-BC-2020-06/F03145/A03 correctly translates that the item was signed for ('pp') Rexhep SELIMI.

9. The SPO also makes the following clarifications: (i) Proposed Exhibit 12 in Annex 1, which was missing a classification, should be public; and (ii) in relation to Proposed Exhibit 61 in Annex 1, the title page SPOE00230816-SPOE00230816 / SPOE00230816-SPOE00230816-ET is also tendered, along with the other specified extracts of SPOE00230829-SPOE00230900 / SPOE00230829-SPOE00230900-ET Revised 2.

III. CLASSIFICATION

10. This reply is confidential pursuant to Rule 82(4).

IV. RELIEF REQUESTED

11. For the reasons given above and previously, the Motion, taking into account paragraphs 8-9 above, should be granted.

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Kimberly P. West

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Monday, 5 May 2025

At The Hague, the Netherlands.