



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2020-05  
Specialist Prosecutor v. Salih Mustafa

**Before:** Trial Panel I  
Judge Mappie Veldt-Foglia, Presiding  
Judge Roland Dekkers  
Judge Gilbert Bitti  
Judge Vladimir Mikula, Reserve

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor

**Date:** 22 November 2021

**Language:** English

**Classification:** Public

---

**Public Redacted Version of**

**'Addendum to Prosecution Application KSC-BC-2020-05/F00263',**

**KSC-BC-2020/05/F00265, dated 22 November 2021**

---

**Specialist Prosecutor's Office**

Jack Smith

**Counsel for the Accused**

Julius von Bóné

**Counsel for Victims**

Anni Pues

## I. INTRODUCTION

1. On 19 November 2021, pursuant to Rules 153(1) and 9(5)(a) of the Rules,<sup>1</sup> and to the Trial Panel's oral order,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') filed its application to admit the evidence of witness W04712 in writing *in lieu* of oral testimony ('Application').<sup>3</sup>

2. The SPO hereby files an addendum to the Application in order to indicate the reasons for late filing, as ordered by the Trial Panel.<sup>4</sup>

3. This Application is filed as confidential to respect the confidentiality of prior filings concerning W04712, for whom protective measures have been granted. A public redacted version will be filed.

## II. SUBMISSIONS

4. Pursuant to paragraph 40 of the Decision,<sup>5</sup> the SPO was ordered to submit any applications under Rules 153 and 155(1) by Monday, 13 September 2021.<sup>6</sup>

5. The evidence to be presented at trial, and the proposed manner of presentation, are matters which the SPO keeps under constant review, including from the perspective of the well-being of witnesses and the efficiency of proceedings. The decision to seek admission of W04712's evidence in writing was made only after the commencement of trial, and following further review of the entirety of the evidence to be presented. In particular, following the testimony of the initial witnesses, and in light of the largely cumulative and corroborative nature of W04712's evidence, it was

---

<sup>1</sup> 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.

<sup>2</sup> KSC-BC-2020-05, Transcript of 2 November 2021, page 1280.

<sup>3</sup> KSC-BC-2020-05, F00263.

<sup>4</sup> KSC-BC-2020-05, Transcript of 2 November 2021, page 1280.

<sup>5</sup> Decision on the submission and the admissibility of evidence, KSC-BC-2020-05/F00169, 25 August 2021 ('Decision').

<sup>6</sup> Decision, KSC-BC-2020-05/F00169, paras 40 and 48.

identified that presentation in writing would not compromise the rights of the Accused and could both promote efficiency in the proceedings and avoid W04712 having to undergo the potentially difficult process of a court appearance in relation to the traumatic events in question. Upon the determination being made, the SPO informed the Panel about its intention to move pursuant to Rule 153(1) at the earliest opportunity,<sup>7</sup> and after obtaining the Panel's authorisation, filed the Application by the newly prescribed deadline.



**Word count: 393**

---

**Jack Smith**  
**Specialist Prosecutor**

Monday, 22 November 2021  
At The Hague, the Netherlands.

---

<sup>7</sup> SPO Revised Order of witness testimonies for the months of October, November and December 2021 with Confidential Annex 1, KSC-BC-2020-05/F00229, 6 October 2021, paras 2-3.