



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: 8 April 2022

Language: English

Classification: Public with confidential annex

**Prosecution Request for Admission of Documents from the Cross-Examinations of
Defence Witnesses 200, 300, 400 and 500**

with Confidential Annex 1

Specialist Prosecutor's Office

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Julius von Bóné

Victims' Counsel

Anni Pues

I. INTRODUCTION

1. Pursuant to the Trial Panel's Decision on the Conduct of Proceedings,¹ and Rule 138(1) of the Rules,² and in compliance with the Panel's oral order of 28 March 2022,³ the SPO hereby requests the admission into evidence of the items listed in Annex 1 to this Request ('Documents'). The Documents include portions of prior statements made by Defence Witnesses 200, 300 and 500, and referred to by the SPO during cross-examinations of the witnesses, as well as material shown to Defence witnesses 200, 300, 400 and 500.
2. The Documents are relevant, authentic, have probative value, and their admission would cause no undue prejudice to the Accused.⁴
3. Pursuant to Rule 82(3), Annex 1 to this Request is filed as confidential in order to protect confidential information in this case.

II. SUBMISSIONS

a. Prior statements

4. The parts of the prior statements and transcripts that were used with the Defence Witnesses during cross-examination are tendered into evidence.⁵ In some cases,⁶ larger portions than those strictly used are tendered into evidence in order to give a fair context to the questions and answers, and in light of comments made by the

¹ Decision on the conduct of the proceedings, KSC-BC-2020-05/F00170, Public, 26 August 2021, ('Decision') paras 36-38.

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 KSC-BC-2020-05, Official Transcript, 28 March 2022, Public, pp.2803-2804.

⁴ See Rule 138. Unless challenged or *proprio motu* excluded, evidence submitted to the Panel shall be admitted if it is relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect.

⁵ Annex 1, items 1-4, 20, 26.

⁶ See items 1-3, Annex 1.

witnesses.⁷ Where an Albanian translation was not available,⁸ the SPO has requested translation of the relevant excerpts and will upload them in LWF as soon as ready.

5. The interview of the Accused with the SPO,⁹ as well as other documents or photographs used with the Defence witnesses in cross-examination but already in evidence¹⁰ are not tendered again.

b. Documents and photographs

6. The miscellaneous documents and photographs¹¹ used with the Defence witnesses during cross-examination are self-explanatory, and are tendered in their entirety, as they are limited in length and scope.

c. Open-source materials

7. The open-source materials that were used with the Defence Witnesses during cross-examination¹² are tendered into the record only for the purposes of a credibility assessment of the witnesses.

III. RELIEF REQUESTED

8. For the foregoing reasons, the SPO requests admission of the documents used during the cross-examinations of Defence Witnesses 200, 300, 400 and 500, as listed in confidential Annex 1 to this Request.

⁷ See e.g. KSC-BC-2020-05, Official Transcript, 23 March 2022, Public, pp.2688-2689.

⁸ Items 1-3, Annex 1.

⁹ 069404-TR-ET Parts 1 to 8.

¹⁰ See e.g. photographs used with WDSM-200: SPOE00222617-00222617 (P00164 MFI); SPOE00222690-00222690 (P00180 MFI); SPOE00222600-00222600 (P00156 MFI); SPOE00222631-00222631 (P00167 MFI); SPOE00222695-00222695 (P00184 MFI).

¹¹ Annex 1, items 5, 9-10, 16, 21-22.

¹² Annex 1, items 4, 6-8, 11-15, 17-19, 23-25, 27-31.

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Jack Smith
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Friday, 8 April 2022
At The Hague, the Netherlands.