



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:** 22 September 2023

**Language:** English

**Classification:** Public

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**Prosecution submission of list of reserve witnesses**

**with confidential Annex 1**

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**Specialist Prosecutor's Office**

Ward Ferdinandusse

**Counsel for Victims**

Simon Laws

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

1. Pursuant to the Conduct of Proceedings Order,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') submits Annex 1 containing a list of seven reserve witnesses.<sup>2</sup> On 14 September 2023, the SPO filed a Rule 154 Motion<sup>3</sup> relating to these witnesses, and on 15 September 2023, the SPO noticed three of these witnesses as potential reserves for the 9-19 October 2023 evidentiary block.<sup>4</sup>

2. A new list of reserve witnesses was required due to the number of previously noticed reserve witnesses called during evidentiary blocks in July, August, and September 2023.<sup>5</sup> The SPO proposes to call these reserve witnesses if scheduled witnesses are unavailable to testify or if the cross-examinations of scheduled witnesses proceed faster than expected. Due to the nature of reserve witnesses, there must be a degree of flexibility.<sup>6</sup> In this respect, accurate cross-examination estimates are essential to facilitate scheduling decisions, are crucial for the SPO to provide timely notice of

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<sup>1</sup> Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 73-74, 80-81. *See also* Decision on Prosecution Request for Compliance with Third Oral Order Regarding Proposed Duration of Cross-Examination and Related Matters, KSC-BC-2020-06/F01336, 1 March 2023, paras 20, 25(d).

<sup>2</sup> Annex 1: W00208, W04753, W04491, W02082, W02475, W04325, W04147.

<sup>3</sup> Prosecution motion for admission of evidence of Witnesses W00208, W02082, W02475, W04147, W04325, W04491, and W04753 pursuant to Rule 154, KSC-BC-2020-06/F01788, 14 September 2023, Confidential ('Rule 154 Motion').

<sup>4</sup> W00208, W04753, and W04491. *See* Email from SPO to Panel, Parties, and participants dated 15 September 2023 at 15.21. The SPO will respond separately to the request by two Defence teams to postpone the testimony of these witnesses. *See* Thaçi and Selimi Defence Request to postpone the testimony of W00208, W04753, and W04491, KSC-BC-2020-06/F01871, Confidential. The SPO's position on that request is generally set out in KSC-BC-2020-06/F01871/A02.

<sup>5</sup> Of the previously noticed reserve witnesses, three have not yet been called. *See* KSC-BC-2020-06/F01630/A02. The SPO took into account Defence preferences regarding the scheduling of two previously noticed reserve witnesses: W01493 and W04448. *See* Additional Joint Defence Response to Prosecution Submission of List of the Next 12 Witnesses, Reserve Witnesses and Associated Information, KSC-BC-2020-06/F01694, 21 July 2023, Confidential; Transcript, 30 August 2023, pp.6982-6983. Further, as previously indicated, the availability and testimony mode of one previously noticed reserve witness remains under consideration. The SPO will provide further information as soon as practicable. *See* Public Redacted Version of 'Prosecution request concerning items related to W03832 and Rule 154 application for [REDACTED]', KSC-BC-2020-06/F01673/RED, 17 July 2023, para.3; Decision on Prosecution Motion for Admission of Evidence of W03724, W03832, W03880, W04368, W04566, and W04769 Pursuant to Rule 154, KSC-BC-2020-06/F01700, 24 July 2023, Confidential, para.18.

<sup>6</sup> Oral Order, Transcript, 10 July 2023, pp.5259-5261.

the witnesses it intends to call, and could avoid the need to regularly resort to reserve witnesses.<sup>7</sup>

3. In selecting the reserve witnesses, the SPO has taken into account and balanced a number of (often competing) factors, including:<sup>8</sup> (i) publicity;<sup>9</sup> (ii) witness availability, testimony modes, examination estimates, sitting schedules, and *inter partes* consultations; (iii) the scope, nature, and subject matter of the witness's anticipated testimony and related materials; (iv) the status of the presentation of evidence;<sup>10</sup> (v) the witness's personal circumstances; (vi) security concerns; and (vii) the need to provide adequate notice.

4. As required, Annex 1 sets out the following as to the reserve witnesses: (i) name and pseudonym; (ii) all prior statements ; (iii) the mode of testimony; (iv) the issues, facts and circumstances in relation to which the witness will be examined; (v) time estimate for direct examination; (vi) documents and exhibits which the SPO intends to use with each witness (identified by their complete ERN,<sup>11</sup> the date, description and claimed relevance of each document, and the exhibit or MFI number of any of those already admitted or marked for identification); and (vii) information regarding protective measures ordered in relation to the witness (with reference to relevant orders).

5. Annex 1 is a compilation of information that significantly – and in some cases completely – overlaps with information already in the Defence's possession. For example, in relation to category (iv), similar (and more detailed) information concerning the anticipated subject matter of each witness's testimony has been provided through, *inter alia*, the Rule 95 summaries and the Rule 154 Motion. Further,

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<sup>7</sup> Oral Order, Transcript, 10 July 2023, pp.5259-5261; Oral Order, Transcript, 19 July 2023, p.6089.

<sup>8</sup> See also Oral Order, Transcript, 10 July 2023, pp.5259-5261.

<sup>9</sup> See, for example, Transcript, 20 June 2023, p.5421. Three of the reserve witnesses are anticipated to testify without protective measures.

<sup>10</sup> This includes consideration of witnesses heard, evidence admitted, and noticed adjudicated facts related to the subject matter of each witness's evidence.

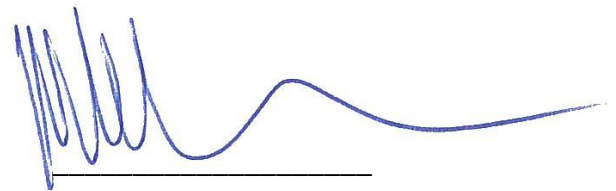
<sup>11</sup> Transcript parts and separate records of the same hearing, testimony, or interview are grouped together, where applicable.

in relation to category (vi), the documents the SPO intends to use with the witnesses primarily consist of previously tendered and/or admitted items.<sup>12</sup>

6. Finally, pursuant to the Decision,<sup>13</sup> the SPO, following consultation with the Defence and Victims' Counsel, confirms that revealing the gender of protected witnesses W04753, W04491, W02082, and W04325 would not be identifying in the particular circumstances of their evidence.

7. Annex 1 is confidential pursuant to Rule 82(4) and to give effect to existing protective measures.

**Word count: 967**



**Ward Ferdinandusse**

**Acting Deputy Specialist Prosecutor**

Friday, 22 September 2023

At The Hague, the Netherlands.

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<sup>12</sup> For example, in relation to the potential reserve witnesses for the 9-19 October 2023 evidentiary block (W00208, W04753, and W04491), the SPO does not intend to use any documents during the testimony of W00208, and all but one of the documents the SPO intends to use with W04753 and W04491 were tendered in the Rule 154 Motion as exhibits associated with their proposed Rule 154 statements. Certain of these associated exhibits were also previously admitted, as reflected as Annex 1.

<sup>13</sup> Decision on the Prosecution Submission on Reclassification of Portions of W03165's testimony, KSC-BC-2020-06/F01654, 7 July 2023, Confidential ('Decision'), para 17.