



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: 13 October 2023

Language: English

Classification: Public

Prosecution submissions concerning certain items tendered by Hashim Thaçi for admission through W03880

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Rules 141 and 143,¹ the Specialist Prosecutor's Office ('SPO') hereby makes submissions opposing the admission of four exhibits that Hashim Thaçi ('Thaçi') seeks to tender through W03880 ('Contested Exhibits'). Thaçi fails to adequately substantiate admission of the Contested Exhibits through W03880.

II. PROCEDURAL HISTORY

2. W03880 testified on 9-10 October 2023. On 10 October 2023, counsel for Thaçi requested time to review which exhibits he would seek to tender through W03880 and then make submissions to the Trial Panel in that regard.² The Presiding Judge granted that request and instructed counsel to first consult with the SPO.³

3. On 11 October 2023, Thaçi sent by *inter-partes* email a list of exhibits he sought to tender through W03880, along with a proposal to substitute a shorter video clip and corresponding transcripts for others previously on his presentation queue.⁴ On 12 October 2023, the SPO responded that it did not object to the replacement video and transcripts, nor to the admission of the indicated exhibits with the exception of the four Contested Exhibits.⁵ The SPO informed Thaçi that it objected to the proposed admission of the Contested Exhibits because Thaçi had not established a basis for admission through W03880 for them.

4. By email on 12 October 2023, Thaçi informed the Trial Panel of the content of the previous exchange with the SPO, and requested to be heard regarding the Contested Exhibits on 16 October 2023.⁶ The Presiding Judge instructed in response

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules.

² Draft Transcript, 10 October 2023, p.8602, lns 7-15. One defence exhibit was subsequently admitted in court. Draft Transcript, 10 October 2023, p.8608 ln.15 to 8609 ln.2. 1D52.

³ Draft Transcript, 10 October 2023, p.8602, lns 16-20.

⁴ Thaçi Defence E-mail, 11 October 2023, 15:09hrs.

⁵ The exhibits that the SPO indicated it did not object to are: 112748-112750 RED (112748-112750-AT RED); 114682-114683 RED; DHT02667-DHT02671; DHT02675-DHT02681; DHT02682-DHT02682-01, DHT02682-DHT02682-01-TR, DHT02682-DHT02682-01-TR-ET.

⁶ Thaçi Defence Email, 12 October 2023, 12:17 hrs.

that: 'Submissions on the admission of exhibits in relation to W03880, in particular in relation to the items in dispute, should be provided in writing, by COB on Friday, 13 October.'⁷

III. SUBMISSIONS

5. Thaçi bears the burden of demonstrating the connection of the Contested Exhibits with the testimony of the witness through whom he seeks to tender them.⁸ Thaçi fails to satisfy this burden in relation to the Disputed Exhibits and W03880.

6. *DHT02025-DHT02029* and *DHT02030-DHT02043 (DHT02030-DHT02043-ET)*. Thaçi read excerpts from these documents to W03880 and then asked him a single question in relation to his knowledge of the content of the excerpts, to which W03880 unequivocally denied all knowledge.⁹ This is insufficient to justify admission. Moreover, *DHT02025-DHT02029*, as presented, is incomplete and the connection between the ICTY statement cover page (*DHT02025*) and what appear to be excerpts of an evidence summary (*DHT02026-DHT02029*) is unclear on the face of the document. In any event, as it includes at least part of an ICTY witness statement, it is subject to the *lex specialis* of Rules 153-155, and so, if at all, should be tendered through those rules.¹⁰

7. *DHT02044-DHT02047*. When Thaçi sought to present this document to W03880, the Presiding Judge sustained the SPO's objection, and so no questions regarding this document were put to the witness.¹¹ This is insufficient to justify admission.

⁷ CMU Email, 12 October 2023, 16:35 hrs.

⁸ Annex 1 to Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023, para.49.

⁹ Draft Transcript, 9 October 2023, pp 8518-8521.

¹⁰ Decision on Krasniqi Defence Request to Admit Additional Document Related to W02153, KSC-BC-2020-06/F01825, 11 October 2023, para.10.

¹¹ Draft Transcript, 9 October 2023, pp. 8521-8522.

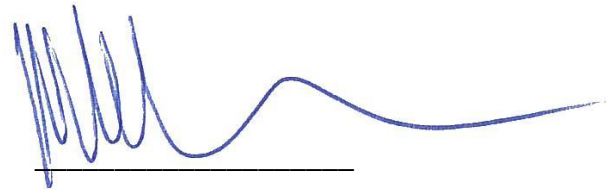
8. *DHT02683-DHT02684*. When Taçi sought to present this document to W03880, the Presiding Judge sustained the SPO's objection, and so no questions regarding this document were put to the witness.¹² This is insufficient to justify admission.

9. Furthermore, as to the allegations concerning Vladimir Dobričić that Taçi sought to substantiate through these documents, W03880 was consistent and categorical that he knew nothing concerning them.¹³

IV. RELIEF REQUESTED

10. For the foregoing reasons, the SPO requests that the Trial Panel deny admission of the Contested Exhibits.

Word Count: 722



Ward Ferdinandusse

Acting Deputy Specialist Prosecutor

Friday, 13 October 2023

At The Hague, the Netherlands.

¹² Draft Transcript, 9 October 2023, p.8524.

¹³ See, e.g., 116028-116030, para.2; Draft Transcript, 9 October 2023, pp. 8474-8475, 8518-8524.