



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

**In:** KSC-BC-2020-04  
**Specialist Prosecutor v. Pjetër Shala**

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

**Registrar:** Dr Fidelma Donlon

**Filing Party:** Specialist Prosecutor's Office

**Date:** 15 January 2024

**Language:** English

**Classification:** Public

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**Prosecution request for admission of material used during the cross-examination  
of W04405**

**with confidential Annex 1**

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**Specialist Prosecutor's Office**

Kimberly P. West

**Counsel for the Accused**

Jean-Louis Gilissen

**Counsel for Victims**

Simon Laws

## I. INTRODUCTION

1. Pursuant to the Decision on Non-Oral Evidence,<sup>1</sup> the Panel's Oral Order,<sup>2</sup> and Rule 138(1) of the Rules,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') hereby requests the admission of the items listed in Annex 1 to this request ('Documents'). The Documents include material used during the cross-examination of W04405 on 9 and 10 January 2024.

2. The Documents are relevant, authentic, have probative value, and their admission would cause no undue prejudice to the Accused.<sup>4</sup> Annex 1 lists the relevant Documents and specifies the portions of the trial transcript where each of the Documents is discussed.

## II. SUBMISSIONS

3. The SPO tenders the following two items used during the cross-examination of W04405: (1) a Facebook post, dated 3 June 2022;<sup>5</sup> and (2) relevant parts of the SPO interview of W04453.<sup>6</sup>

4. The Facebook post was discussed with the witness and used to test the credibility of his evidence, as well as clarify the dates of certain events, and is therefore

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<sup>1</sup> Decision on the submission and admissibility of non-oral evidence, KSC-BC-2020-04/F00461, 17 March 2023, public ('Decision on Non-Oral Evidence'), paras 55-65.

<sup>2</sup> Oral order setting the next procedural steps regarding the closing of the Defence case, 29 November 2023 ('Oral Order') (setting 15 January 2024 as the date by which the parties and Victims' Counsel are to submit any applications for the admission of material used with witnesses during the 9-12 January 2024 evidentiary block).

<sup>3</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 are to the Rules, unless otherwise specified.

<sup>4</sup> 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.

<sup>5</sup> Annex 1, item 1.

<sup>6</sup> Annex 1, item 2. 065236-TR-ET Part 2 RED, p.11 has already been admitted into evidence and is available for the Panel's deliberations pursuant to the Decision on requests for admission of items used with DW4-06, DW4-02, DW4-05 and W04754 during their in-court testimonies, KSC-BC-2020-04/F00714, 13 November 2023, confidential ('Decision on admission of items'), paras 13-14, 21(c), bearing exhibit number P00214.

relevant. It is publicly available on open sources, and its admission causes no undue prejudice to the Accused.

5. While item no.2 is the statement of a witness who was not called to testify in the present proceedings, it should be relied on by the Panel for a full understanding of W04405's testimony and to assess the credibility of his evidence, in line with the approach adopted in this trial.<sup>7</sup> Reliance on this document for these purposes causes no undue prejudice to the Accused. While the SPO only put pages 8-9, 19, 22, 27, 30 of 065236-TR-ET Part 2 RED to W04405, it submits that also pages 7, 18, 20-21, 23-24, and 31-32 should be considered by the Panel for the proper assessment of the evidence provided by the witness in court.<sup>8</sup>

### III. CLASSIFICATION

6. Annex 1 is confidential as some of the items listed therein are not public.

### IV. RELIEF REQUESTED

7. For the foregoing reasons, the SPO requests admission of the Documents listed in Annex 1 to this request.

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<sup>7</sup> Decision on admission of items, KSC-BC-2020-04/F00714, paras 13-14; Transcript (Trial Hearing), 23 November 2023, p.3578, lines 5-14.

<sup>8</sup> See in this regard, Decision on admission of items, KSC-BC-2020-04/F00714, para.14.



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**Kimberly P. West**  
**Specialist Prosecutor**

Monday, 15 January 2024

At The Hague, the Netherlands.