



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 Guénaël Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

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

**Date:** 22 January 2024

**Language:** English

**Classification:** Public

---

**Public Redacted Version of 'Prosecution request to amend the Exhibit List and related request for expedited briefing schedule'**

---

**Specialist Prosecutor's Office**

Kimberly P. West

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Victims**

Simon Laws

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

## I. INTRODUCTION

1. Pursuant to the Article 40 of the Law,<sup>1</sup> and Rule 118(2) of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') requests leave to amend the Exhibit List<sup>3</sup> to include additional material for use with upcoming SPO protected witness W02082, namely, video footage [REDACTED] depicting, *inter alia*, W02082 and other SPO witnesses shortly after their return from detention by KLA soldiers at [REDACTED] ('Requested Amendment').<sup>4</sup>

2. As discussed herein, the video footage was provided by W02082 on 20 January 2024. W02082 is anticipated to testify this week, the week of 22 January 2024. Considering that the SPO intends (if authorised) to use this footage with W02082, and the limited scope and nature of this request, the SPO also requests an expedited briefing schedule to enable a decision on this request before or at the start of the witness's testimony.<sup>5</sup>

3. This request – which at this stage solely concerns the amendment of the Exhibit List and not admission<sup>6</sup> – is limited in scope, allows timely and effective Defence preparations, and concerns relevant material, which is probative of the charges.<sup>7</sup>

---

<sup>1</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>2</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>3</sup> Annex 1 to Prosecution submission of amended exhibit list, KSC-BC-2020-06/F02061/A01, 15 January 2024, Strictly Confidential and *Ex Parte* ('Exhibit List').

<sup>4</sup> 118826-01 was disclosed in Package 1075.

<sup>5</sup> Based on current examination estimates, the witness's testimony is expected to commence on Wednesday, 24 January 2024.

<sup>6</sup> See Decision on Prosecution Request to Amend the Exhibit List and Related Matters, KSC-BC-2020-06/F01352, 8 March 2023 ('8 March 2023 Decision'), para.31 (an evaluation of proposed amendments to the Exhibit List does not call for an assessment of admissibility, but a *prima facie* evaluation only); Decision on Prosecution Request to Add Five Items Relating to Expert Witnesses to the Exhibit List, KSC-BC-2020-06/F01544, 23 May 2023 ('23 May 2023 Decision'), para.11; Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List, KSC-BC-2020-06/F01656, 7 July 2023, para.11.

<sup>7</sup> See 8 March 2023 Decision, KSC-BC-2020-06/F01352, paras 29, 31, 33; Decision on Thaçi's Appeal against "Decision on Specialist Prosecutor's Request to Amend its Exhibit List and to Authorise Related Protective Measures", KSC-BC-2020-06/IA019/F00006, 12 July 2022 ('Thaçi Appeal Decision'), para.21. See also 23 May 2023 Decision, KSC-BC-2020-06/F01544, para.11.

## II. SUBMISSIONS

4. In this complex multi-Accused case, involving a considerable amount of evidence, amendments to the Exhibit List should be treated with flexibility, provided that – as is the case here – there is adequate protection of the Accused’s rights.<sup>8</sup> Considering the stage of the trial proceedings, the scope of the case, and the limited nature and scope of the Requested Amendment, there is minimal impact on Defence preparations. Therefore, the Requested Amendment strikes an appropriate balance between the rights of the Accused and the duty of the SPO to present available evidence to prove its case.<sup>9</sup>

### A. GOOD CAUSE EXISTS FOR THE REQUESTED AMENDMENT

5. Item 118826-01 is a video recording broadcast on [REDACTED]. It depicts [REDACTED], W02082, and [REDACTED], in their homes and the witnesses’ injuries in the hours after they were released from being detained at [REDACTED], where they were each abused by KLA soldiers. The video images corroborate [REDACTED],<sup>10</sup> which includes photographs of W02082 [REDACTED] and which the Panel has determined is appropriate for admission at trial as an associated exhibit.<sup>11</sup> It also depicts KLA soldiers in uniform, which W02082 reports is consistent with the uniform dress worn by the individual KLA soldiers who seized him from his home and transported him to [REDACTED], as well as the soldiers who abused him. As such, the Requested Amendment is *prima facie* relevant and of sufficient importance to justify addition to the Exhibit List, as the video footage corroborates allegations related to the events at a charged crime site [REDACTED] in the Indictment.

---

<sup>8</sup> See 8 March 2023 Decision, KSC-BC-2020-06/F01352, paras 29, 31; Taçi Appeal Decision, KSC-BC-2020-06/IA019/F00006, para.21. See also 23 May 2023 Decision, KSC-BC-2020-06/F01544, para.11.

<sup>9</sup> Taçi Appeal Decision, KSC-BC-2020-06/IA019/F00006, paras 21, 23; 23 May 2023 Decision, KSC-BC-2020-06/F01544, para.11.

<sup>10</sup> SITF00188909-00188966.

<sup>11</sup> Decision on Prosecution Motion for Admission of Evidence of W00208, W02082, W02475, W04147, W04325, W04491 and W04753 Pursuant to Rule 154 (F01788), KSC-BC-2020-06/F01848, 10 October 2023, Confidential, para.23.

### B. THE REQUEST IS TIMELY

6. This request is being made as promptly as possible after its collection, processing, and disclosure, and sufficiently in advance of the witness's testimony.

7. The video footage was provided to the SPO by W02082 on 20 January 2024. The SPO viewed the video footage that same day and then reviewed it with W02082 on 21 January 2024, at which point W02082 confirmed who and what was depicted in the video footage and how it related to the information he provided in his proposed Rule 154 statement, allowing the SPO to determine the importance of the Requested Amendment, including for use with relevant witnesses, such as W02082,<sup>12</sup> [REDACTED].

### C. THERE IS LIMITED, IF ANY, PREJUDICE TO THE DEFENCE

8. No undue prejudice would result from adding the Requested Amendment to the Exhibit List. The additional, relevant information contained in the video footage, which runs for less than two minutes, is very limited, it is being promptly disclosed upon its discovery, and the related prior statements of W02082 [REDACTED] have already been disclosed. Finally, given its limited size and the fact that it contains information that is corroborative of and complementary to the prior statements and associated exhibits of W02082 [REDACTED], the Requested Amendment will have minimal, if any, impact on the Defence's ability to prepare, including for W02082's anticipated examination this week.

### III. CLASSIFICATION

9. This filing and its annex are confidential as they relate to protected witnesses whose identities are not public.

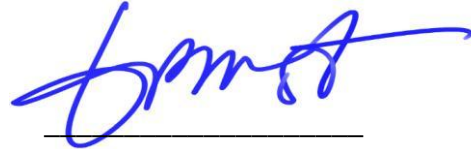
---

<sup>12</sup> The SPO intends to use the video without sound with W02082 for the reasons and purposes set out above.

IV. RELIEF REQUESTED

10. For the foregoing reasons, the Panel should authorise the Requested Amendment.

**Word count: 1,046**



---

**Kimberly P. West**

**Specialist Prosecutor**

Monday, 22 January 2024

At The Hague, the Netherlands.