

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 Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr. Fidelma Donlon

Filing Participant: Counsel for Hashim Thaçi
Counsel for Kadri Veseli
Counsel for Rexhep Selimi
Counsel for Jakup Krasniqi

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Public Redacted Version of

Joint Defence Response to Prosecution Request to Amend the Exhibit List (F02099)

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I. INTRODUCTION

1. The Defence for Messrs. Thaçi, Veseli, Selimi, and Krasniqi (“Defence”) hereby responds to the Specialist Prosecutor’s Office (“Prosecution”) Request to Amend the Exhibit List.¹

2. The Defence requests that the Trial Panel dismiss the Prosecution request to amend the exhibit list to include SPOE00229777-00229802 and 072639-072641 as well as their respective translations (collectively “Requested Amendments”). The Defence does not oppose the addition of the transcripts of [REDACTED] testimony in the [REDACTED] and the associated exhibits.²

3. Pursuant to Rule 82(4) of the Rules,³ this filing is classified as confidential as it responds to a document with the same classification.

II. PROCEDURAL HISTORY

4. On 30 November 2022, the President of the Kosovo Specialist Chambers (“KSC”) constituted Trial Panel II (“Trial Panel”).⁴

5. On 15 December 2022, the Pre-Trial Judge transmitted the case file to the Trial Panel pursuant to Rule 98 of the Rules.⁵

¹ KSC-BC-2020-06, F02099, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List* (“Request”), 2 February 2024, confidential, with Annex 1, confidential.

² [REDACTED].

³ Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”).

⁴ KSC-BC-2020-06, F01132, President of the Specialist Chambers, *Decision Assigning Trial Panel II*, 30 November 2022, public.

⁵ KSC-BC-2020-06, F01166, Pre-Trial Judge, *Decision Transmitting the Case File to Trial Panel II*, 15 December 2022, public, with Annexes 1, 3, confidential, and Annexes 2, 4, strictly confidential and *ex parte*.

6. On 25 January 2023, the Trial Panel issued the Order on the Conduct of Proceedings, instructing the Parties to submit any request to amend the witness and exhibit list “at the earliest possible opportunity and, but for exceptional circumstances, sufficiently in advance of the commencement of the Party’s case”.⁶

7. On 3 April 2023, the trial proceedings started.⁷

8. In the ten months that followed the opening of the Prosecution case, the Prosecution has made no less than 9 applications to amend the list of exhibits,⁸ and has filed, upon authorisation from the Trial Panel,⁹ 8 amended versions of its exhibit list.¹⁰

⁶ KSC-BC-2020-06, F01226/A01, Trial Panel II, *Annex 1 to Order on the Conduct of Proceedings* (“Order on the Conduct of Proceedings”), 25 January 2023, public, para. 48.

⁷ KSC-BC-2020-06, Transcript of Hearing, 3 April 2023, public.

⁸ KSC-BC-2020-06, F01622, Specialist Prosecutor, *Prosecution Request to Add Intercepted Communications to the Exhibit List*, 23 June 2023, confidential; Transcript of Hearing, 12 July 2023, confidential, pp. 5508-5509; F01689, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 20 July 2023, confidential, with Annexes 1-12, confidential, and Annexes 13-15, public; F01728, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 22 August 2023, confidential, with Annex 1, confidential; F01747, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 29 August 2023, confidential, with Annex 1, confidential; F01844, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 6 October 2023, confidential, with Annexes 1-5, confidential; F01858, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 16 October 2023, confidential, with Annexes 1-3, confidential; F02073, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List and Related Request for Expedited Briefing Schedule*, 22 January 2024, confidential; Request.

⁹ KSC-BC-2020-06, F01544, Trial Panel II, *Decision on Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List* (“May 2023 Decision”), 23 May 2023, public; F01656, Trial Panel II, *Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List* (“July 2023 Decision”), 7 July 2023, confidential; In Court – Oral Order, *Order on SPO’s Application to Amend its List of Exhibits*, 12 July 2023, public; F01739, Trial Panel II, *Decision on Prosecution Request to Amend the Exhibit List (F01728)* (“August 2023 Decision”), 24 August 2023, confidential; F01785, Trial Panel II, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)* (“September 2023 Decision”), 12 September 2023, confidential; F01902, Trial Panel II, *Decision on Prosecution Request to Amend the Exhibit List (F01858)* (“November 2023 Decision”), 3 November 2023, public; F01995, Trial Panel II, *Decision on Prosecution Request to Amend the Exhibit List (F01844)* (“December 2023 Decision”), 8 December 2023, confidential.

¹⁰ KSC-BC-2020-06, F01562, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 30 May 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01662, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 10 July 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01669, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 12 July 2023, public, with Annex 1, strictly confidential and *ex parte*

9. On 2 February 2024, the Prosecution filed the Request, which is the object of the present response.

III. APPLICABLE LAW

10. The Defence incorporates by reference its prior submissions on the applicable law.¹¹

IV. SUBMISSIONS

11. The Request does not meet the threshold criteria established by Rule 118(2) of the Rules. The Prosecution has failed to provide timely notice and to show good cause justifying the late addition of the Requested Amendments to the list of exhibits.

A. THE REQUESTED AMENDMENTS ARE UNTIMELY

12. The Requested Amendments are untimely. The proceedings are well into the trial stage. Since the opening of the Prosecution case on 3 April 2023, a total of 45 witnesses have come to testify, and the Prosecution has filed Rule 153 and 155

and Annex 2, confidential; F01744, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 25 August 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01802, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 September 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01906, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 3 November 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02014, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 December 2023, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02061, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 January 2024, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

¹¹ KSC-BC-2020-06, F01712, Specialist Counsel, *Joint Defence Response to Prosecution Request to Amend the Exhibit List* ("July 2023 Response"), 31 July 2023, confidential, paras 10-16.

applications for the admission of the evidence of 43 witnesses.¹² The Prosecution's recurrent reference to the stage of the trial proceedings¹³ in support of the late addition of items to the exhibit list is thus meritless. The Trial Panel has previously held that "[a]s proceedings advance, any further requests to amend the Exhibit List will be subject to greater scrutiny".¹⁴ Despite this, the volume and number of Prosecution requests to amend the exhibit list continue to proliferate.

13. Furthermore, on 15 February 2023, the Prosecution provided confirmation to the Trial Panel that its list of exhibits was final and that there would be no additional requests to amend the exhibit list.¹⁵ Evidently, this has proved not to be the case. Since it gave this assurance, the Prosecution has requested authorisation to amend its list of exhibits on 10 occasions.¹⁶ The latest version of the Prosecution list of exhibits, which the Trial Panel has previously described as "by any standards, voluminous"¹⁷ contains 19,926 items.¹⁸ More than 3,600 items have been added to the list of exhibits since the

¹² KSC-BC-2020-06, F01329, Specialist Prosecutor, *Prosecution First Motion for Admission of Evidence pursuant to Rule 155*, 1 March 2023, confidential, with Annexes 1-17, confidential; F01658, Specialist Prosecutor, *Prosecution Motion for Admission of Evidence of Witnesses W01237, W04594, W04592, W04872, W04871, W04673 and W04362 pursuant to Rule 153*, 7 July 2023, confidential, with Annexes 1-7, confidential; F01691, Specialist Prosecutor, *Prosecution Second Motion for Admission of Evidence pursuant to Rule 155*, 20 July 2023, confidential, with Annexes 1-8, confidential; F01804, Specialist Prosecutor, *Prosecution Third Motion for Admission of Evidence pursuant to Rule 155*, 20 September 2023, confidential, with Annexes 1-4, confidential; F01994, Specialist Prosecutor, *Prosecution Motion for the Admission of the Evidence of Witnesses W04016, W04019, W04044, W04305, W04361, W04722, W04816, W04850, W04851, and W04852 pursuant to Rule 153*, 8 December 2023, confidential, with Annexes 1-10, confidential. In addition, the Defence notes that the Prosecution has filed Rule 154 for a number of witnesses who have not testified yet, including W01453.

¹³ Request, para. 3.

¹⁴ November 2023 Decision, para. 7; September 2023 Decision, para. 15.

¹⁵ KSC-BC-2020-06, Transcript of Hearing ("Transcript of 15 February 2023"), 15 February 2023, public, pp. 2015-2018.

¹⁶ KSC-BC-2020-06, F01405, Specialist Prosecutor, *Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List*, 29 March 2023, confidential, with Annexes 1-5, confidential. *See also supra*, paras 8-9.

¹⁷ December 2023 Decision, para. 9; November 2023 Decision, para. 7; September 2023 Decision, para. 16.

¹⁸ *See* KSC-BC-2020-06, F02061/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submission of Amended Exhibit List* ("Exhibit List"), 15 January 2024, confidential.

Prosecution filed its first Witness and Exhibit List on 17 December 2021,¹⁹ and more than 600 items have been added during the trial stage.²⁰ The Defence cannot effectively prepare against this moving target.

14. The present Request includes 8 items and amounts to almost 300 pages. In an attempt to downplay the scope of the Request,²¹ once again the Prosecution fails to consider the cumulative effect on Defence preparations of these continuous amendment requests, which are being filed on a nearly monthly basis. It also neglects the Trial Panel's warning given to the Prosecution on 15 February 2023 that "the next time you get 12 more witnesses, we don't want to be told there are some more exhibits you forgot."²²

B. THE PROSECUTION FAILS TO DEMONSTRATE GOOD CAUSE

15. As demonstrated below, the Prosecution has failed to show good cause for the requested amendments. In particular, the Defence takes issue with the number of oversights, which are the common denominator of the Prosecution requests, and that, according to the Trial Panel, on their own and at this stage of the proceedings, do not constitute good cause.²³

¹⁹ See KSC-BC-2020-06, F00631/RED/A03/CONF/RED, Specialist Prosecutor, *Annex 3 to Public Redacted Version of 'Submission of Pre-Trial Brief, with Witness and Exhibit Lists'*, KSC-BC-2020-06/F00631, dated 17 December 2021, 21 December 2021, confidential.

²⁰ See Exhibit List and KSC-BC-2020-06, F01376/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submission of Amended Exhibit List*, 16 March 2023, confidential.

²¹ Request, para. 2.

²² Transcript of 15 February 2023, p. 2017.

²³ November 2023 Decision, para. 10; September 2023 Decision, para. 27; KSC-BC-2020-06, F01352, Trial Panel II, *Decision on Prosecution Request to Amend the Exhibit List and Related Matters* ("March 2023 Decision"), 8 March 2023, confidential, para. 30.

C. ADDITIONAL MATERIAL RELATED TO WITNESS W01453

16. The Prosecution seeks to add SPOE00229777-00229802 and its English translation. This item is said to have been seized from Mr. Krasniqi's residence and is part of a larger collection of documents.²⁴

17. The Prosecution submits that the addition of this document to the exhibit list is justified by its *prima facie* relevance and importance.²⁵ At the outset, the Defence notes that the Prosecution has not explained its case in relation to this document. The Prosecution claims that the document "contains multiple references to W01453",²⁶ and alludes to the witness' contact and discussions with, *inter alia*, Mr. Krasniqi.²⁷ The Prosecution completely misrepresents the text of the Requested Amendment. Neither the pages cited in the Request,²⁸ nor any other passage in the document refers, either explicitly or implicitly, to any contact or discussion between Mr. Krasniqi and W01453.

18. The references to W01453's nickname, [REDACTED]²⁹ on which the Prosecution relies are insufficient to justify the late addition of this document to the list of exhibits. The information offered in the Requested Amendment, which is rather general, can be better elicited orally from the witness himself than from an unauthored document of unclear nature. The Requested Amendment is not relevant for assessing W01453's credibility, which is a factor that the Trial Panel has considered in deciding on the late addition of items to the exhibit list.³⁰

²⁴ SPOE00229777-00229840.

²⁵ Request, para. 9.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ See Request, fn. 22.

²⁹ Request, para. 9.

³⁰ See *e.g.*, November 2023 Decision, paras 10, 21.

19. The Prosecution has thus failed to establish the *prima facie* relevance and importance of the Requested Amendment. For this reason alone, the Prosecution Request to add this document to the exhibit list should be denied.

20. The Prosecution submits that the “specific evidential importance of this item only became apparent in preparing for the examination of W01453”.³¹ This explanation reinforces the Defence’s concerns about receiving applications to amend the list of exhibits with every new set of witnesses,³² which have to be subject to careful assessment every time, including against the significant volume of evidence that has already been admitted.³³

21. The Prosecution had ample opportunity to review the material in its possession and to determine what documents are relevant to the witness. On 13 April 2022, after the time-limit set by the Pre-Trial Judge had passed,³⁴ the Prosecution already sought authorisation to add one item relating to W01453 to the list of exhibits,³⁵ which was granted by the Pre-Trial Judge.³⁶ W01453 was part of the list of First 40 Witnesses that the Prosecution submitted on 18 November 2022.³⁷ On 14 December 2023, the Prosecution provided notice to the Defence of the witnesses to be called in the period from 15 January to 4 April 2024, including W01453.³⁸ In contrast with previous

³¹ Request, para. 9.

³² July 2023 Response, para. 32.

³³ See also *supra* para. 12.

³⁴ KSC-BC-2020-06, In Court – Oral Order, Order on SPO’s Pre-Trial Brief and Related Material According to Rule 95(4)(a), 29 October 2021, public.

³⁵ KSC-BC-2020-06, F00767, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List and for Protective Measures*, 13 April 2022, confidential, para. 5.

³⁶ KSC-BC-2020-06, F00876/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Decision on Specialist Prosecutor’s Request to Amend its Exhibit List and to Authorise Related Protective Measures*, 8 July 2022, confidential, para. 34.

³⁷ KSC-BC-2020-06, F01117, Specialist Prosecutor, *Prosecution Submission of Provisional List of First 40 Witnesses to be Called at Trial*, 18 November 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

³⁸ KSC-BC-2020-06, F02007, Specialist Prosecutor, *Prosecution Submission of List of Witnesses for 15 January to 4 April 2024*, 14 December 2023, public, with Annexes 1-2, confidential.

notifications of sets of witnesses preceding requests to amend the list of exhibits,³⁹ the Prosecution did not provide notice to the Defence of its intention to add the Requested Amendment to the exhibit list.

22. Authorising addition of documents that, at some point after many reviews, eventually catch the Prosecution's attention, places an undue burden on the Defence, which is forced to invest time and resources in addressing each application. It also encourages a practice which undermines the primary purpose of the exhibit list, which is to give notice to the Defence of the documents which the Prosecution intends to use at trial.

23. Whether the Defence had enough time to acquaint itself with the content of the document cannot be established by the fact that the Requested Amendment and its translation were previously disclosed to the Defence under Rules 102(3) and 103.⁴⁰ The purpose of disclosure under those Rules is fundamentally different from including a document on the list of exhibits.

24. The document, which was allegedly seized from Mr. Krasniqi's residence, was in the Prosecution's possession since November 2020.⁴¹ Therefore, the Prosecution must have reviewed it on different occasions for the purpose of disclosure of Rules 102(3) and 103 material.⁴² The Prosecution's failure to carry out an assessment of the Requested Amendment exposes one of the many the flaws of the disclosure

³⁹ E.g., KSC-BC-2020-06, F01630/A01, Specialist Prosecutor, *Annex 1 to Prosecution Submission of List of the Next 12 Witnesses, Reserve Witnesses and Associated Information*, 28 June 2023, confidential, fns 5, 16.

⁴⁰ *Contra* Request, para. 10.

⁴¹ KSC-BC-2020-06, F00125/A03, Specialist Prosecutor, *Annex 3 to Request for Reclassifications (Redacted Versions of Annexes 2 and 4 to Prosecution Report on Search and Seizure Pursuant to KSC-BC-2020-06-F00031-COR)*, 8 December 2020, confidential and *ex parte*.

⁴² In September 2021 the Prosecution confirmed that the Rule 102(3) documents had been "humanly reviewed and assessed for their relevance" for the purpose of compilation of the Notice, and subsequent reviews followed to identify exculpatory material. See KSC-BC-2020-06, Transcript of Hearing, 14 September 2021, public, pp. 586-587.

process.⁴³ The Defence cannot be expected to be acquainted with a document when the Prosecution, after all this time and multiple reviews, has only now assessed it as *prima facie* relevant and sufficiently important to justify its late addition to the exhibits list.

25. The Defence notes that the document bears no indicia of authenticity or any indication as to its authorship. It consequently lacks probative value. The fact that it was seized from Mr. Krasniqi's residence does not establish authorship. In any event, neither Mr. Krasniqi nor W01453 appear to be the author of the Requested Amendment. Indeed, the Prosecution claims that "based on the document's contents, it can be deduced that the author was or purports to be [REDACTED]".⁴⁴ Under this assumption, the only person capable of verifying the contents of the document would be [REDACTED], who is not a witness in this case. In this regard, the Trial Panel has previously taken into consideration whether a witness is the author of a document that the Prosecution seeks to add to its list of exhibits.⁴⁵

26. Additionally, there appear to be translation mistakes in the English version of the Requested Amendment. For instance, the reference to 'Bosnia and Croatia' in the last paragraph of page SPOE00229795 of the original Albanian version is erroneously translated into 'Bosnia and Serbia' in the English version.⁴⁶

27. The Defence notes, in this respect, the Trial Panel's finding that "leave to amend the Exhibit List should not be granted with respect to items that are obviously

⁴³ SPOE00229777-00229802, as many other documents seized from Mr. Krasniqi's residence, was disclosed as part of a larger collection of documents. These collections of documents, some of which amount to more than 700 pages (e.g. SPOE00227903-00228639), were disclosed in a completely disorganised manner. This naturally complicates the review process.

⁴⁴ Request, fn. 22.

⁴⁵ September 2023 Decision, para. 28.

⁴⁶ SPOE00229777-00229840, p. SPOE00229795; SPOE00229777-SPOE00229802-ET, p. SPOE00229795.

irrelevant and would, therefore, ultimately be denied admission into evidence".⁴⁷ The Prosecution does not *need* to use this item with W01453 to establish any of the matters it refers to in the Request,⁴⁸ in light of the voluminous amount of evidence already given by W01453 to various institutions.

28. The prejudicial nature of some of the information in the document, upon which W01453 is unable to comment, is another factor militating against its admission.

29. Whereas the Defence recognises that the decision concerning the addition of items to the list of exhibits does not involve an assessment of admissibility,⁴⁹ the addition of the Requested Amendment to the exhibit list would be prejudicial to Defence preparations.⁵⁰ If authorisation is granted, the Defence will have to allocate additional time and resources to investigate the origin and content of this document, which, as stated above,⁵¹ is unclear. These investigations will inevitably have to be conducted in the few weeks before W01453 comes to testify.⁵²

30. As set out above, (i) the Prosecution has failed to demonstrate the *prima facie* relevance and importance of the Requested Amendment; (ii) the Request is untimely and the Prosecution has failed to show good cause justifying its late addition; and (iii) the document is plainly inadmissible. For these reasons, the Prosecution Request should be denied.

⁴⁷ August 2023 Decision, para. 12; July 2023 Decision, para. 16; May 2023 Decision, para. 11; March 2023 Decision, para. 31.

⁴⁸ Request, para. 9. *See also supra* paras 17-19.

⁴⁹ December 2023 Decision, para. 26; September 2023 Decision, para. 17; August 2023 Decision, para. 9.

⁵⁰ *Contra* Request, para. 10.

⁵¹ *Supra*, para. 22.

⁵² Request, para. 10.

D. KLA DOCUMENTS

31. The Prosecution seeks to add three documents included in 072639-072641 and their English translations.⁵³ The Requested Amendments were provided to the Prosecution by [REDACTED] during his [REDACTED] interview on [REDACTED].⁵⁴

32. The Requested Amendment is untimely. As the Prosecution concedes, the Request could and should have been made earlier.⁵⁵ Whilst the Requested Amendments were in the Prosecution's possession since [REDACTED], it did not disclose them until 21 December 2023.⁵⁶

33. The Prosecution should not be permitted to add documents to its list of exhibits that relate or are relevant to witnesses that have already come to testify, particularly those documents that could have been added to its exhibit list at a much earlier date. In this context, the Trial Panel has previously held that this consideration "is one of the reasons why, as proceedings advance, requests for amendments to the Exhibit List are subject to greater scrutiny".⁵⁷

34. According to the Prosecution, [REDACTED].⁵⁸ At least two of the three documents in 072639-072641 are related to [REDACTED].⁵⁹ The Prosecution submits that 072639 is a transfer ordinance signed by [REDACTED],⁶⁰ and that 072641 is a decision on [REDACTED] issued on [REDACTED] 1999 under the authority

⁵³ Request, para. 11; KSC-BC-2020-06, F02099/A01, Specialist Prosecutor, *Annex 1 to Prosecution Request to Amend the Exhibit List* ("Annex 1"), 2 February 2024, confidential.

⁵⁴ Request, para. 11.

⁵⁵ *Idem*, para. 15.

⁵⁶ Request, para. 15; Disclosure Package 1051.

⁵⁷ September 2023 Decision, para. 22.

⁵⁸ Request, para. 11.

⁵⁹ *See* Annex 1, pp. 2, 4-5, 7.

⁶⁰ Request, para. 12.

[REDACTED].⁶¹ Both individuals [REDACTED] and therefore unable to testify about the documents. W04765, who was part of the command structure of the Pashtrik Zone,⁶² was in a position to provide evidence that may have helped to establish the document's reliability. However, the Prosecution did not ask him about these documents either during his interview or during his in-court evidence, which has already been heard.

35. For example, in his interview with the Prosecution, W04765 was asked about [REDACTED],⁶³ and stated that his role was "[REDACTED]" [REDACTED].⁶⁴ This contradicts the content of 072641 which, the Prosecution submits, "confirms [REDACTED] position [REDACTED] and specifies the date of [REDACTED] transition to reserve status."⁶⁵ Furthermore, [REDACTED] appears mentioned in a [REDACTED] which provides information about [REDACTED],⁶⁶ [REDACTED],⁶⁷ and W04765's interactions with him.⁶⁸

36. W04765 testified in November and December 2023. W04765 gave oral evidence, *inter alia*, about [REDACTED]⁶⁹ and was asked to comment on documents purportedly signed by or on behalf of [REDACTED] and [REDACTED].⁷⁰ The Defence, at the time

⁶¹ Request, para. 14.

⁶² KSC-BC-2020-06, F01594/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief*, 9 June 2023, confidential, p. 490.

⁶³ 083721-TR-ET Part 4 RED, p. 11.

⁶⁴ *Idem*, p. 12.

⁶⁵ Request, para. 14.

⁶⁶ 108011-108040-ET, p. 108012.

⁶⁷ *Ibid.*

⁶⁸ *Idem*, pp. 108014-108015.

⁶⁹ KSC-BC-2020-06, Transcript of Hearing ("Transcript of 13 November 2023"), 13 November 2023, confidential, pp. 9940-9941, 9954; Transcript of Hearing ("Transcript of 4 December 2023"), 4 December 2023, confidential, pp. 10423-10424, 10427.

⁷⁰ *See e.g.*, Transcript of 13 November 2023, p. 9902; Transcript of 4 December 2023, p. 10476; KSC-BC-2020-06, Transcript of Hearing, 16 November 2023, public, pp. 10287-10288; Transcript of Hearing, 5 December 2023, public, pp. 10506-10507.

of W04765's cross-examination, did not have access to the Requested Amendments, and hence, was denied its right to question the witness about them.

37. Finally, the Prosecution fails to provide any reasons concerning the relevance and importance of 072640 that would justify its late addition.⁷¹

38. Accordingly, the Requested Amendments should be denied.

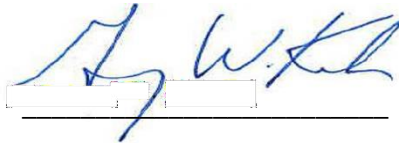
V. CONCLUSION

39. For all the above reasons, the Defence requests that the Prosecution application to add SPOE00229777-00229802 and 072639-072641 (and their English translations) to the list of exhibits be rejected.

Word count: 3,960

⁷¹ Request, para. 13.

Respectfully submitted on 14 February 2024



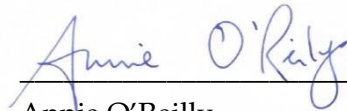
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