



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: 25 March 2024

Language: English

Classification: Public

**Prosecution report concerning *inter partes* discussions about agreed facts
with confidential Annex 1**

Specialist Prosecutor's Office

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Venkateswari Alagenda

1. Pursuant to the Order,¹ the Specialist Prosecutor's Office ('SPO') hereby reports on *inter partes* discussions concerning further areas of agreement or non-dispute between the Parties.²
2. On 4 March 2024, the SPO sent the Defence a list with 344 proposed facts relating to, *inter alia*, the charged crimes. The SPO also reiterated previous requests that the Defence identify any judicially noticed adjudicated facts it would not seek to rebut, and indicate any remaining witnesses to be called *viva voce* or under Rule 154 where it can be agreed that their statements can be admitted in writing. On 6 March 2024, the THAÇI, VESELI, and SELIMI Defence teams responded, indicating a preference for a witness-by-witness and phased approach to the discussion. In light of the Defence's preference and to facilitate the discussion, the SPO proposed facts³ and provided a list of 12 witnesses⁴ for the Zllash/Zlaš crime site.⁵
3. On 18 March 2024, the THAÇI Defence proposed two agreed facts. On 19 March 2024, the SPO responded that it would consider such facts in the context of the Defence's complete response concerning the Zllash/Zlaš crime site.⁶
4. On 22 March 2024, the Defence jointly indicated that it was not in a position to accept any of the SPO's proposed facts. Instead, the Defence proposed that the Parties

¹ Transcript, 26 February 2024, p.13010, lines 1-6 ('Order'). The Panel ordered the SPO and Defence to engage in *inter partes* discussions with a view to identifying further areas of agreement or non-dispute in relation to allegations forming part of the crime base of this case, and to report to the Panel on such discussions no later than 25 March 2024.

² Related *inter partes* correspondence, with additional detail, is included in Annex 1.

³ This included, in addition to a chart of 35 proposed facts relating to the Zllash/Zlaš crime site, references to paragraphs of the *Mustafa* trial judgment (KSC-BC-2020-05/F00494/RED3/COR). The SPO invited the Defence to indicate whether it, *inter alia*, agreed with or did not contest the facts in these paragraphs.

⁴ This list included 12 Rule 153 and Rule 154 witnesses.

⁵ The SPO also reiterated its previous proposals, noting that there is no reason why individual witnesses or pieces of evidence need to be the starting point of the discussion.

⁶ After the THAÇI Defence renewed its request that the SPO consider its proposed facts in advance of receiving its complete response, the SPO, *inter alia*, requested the Defence to indicate the witnesses or evidence it considered linked to such proposed facts. In this respect, the SPO noted the THAÇI Defence's indication that such facts will inform its decision as to whether cross-examination of certain witnesses is necessary.

focus on the list of witnesses. The Defence undertook to, by 1 April 2024, respond about the identified Zllash/Zlaš witnesses and admission of their evidence pursuant to Rule 153, and propose additional facts from the Defence pre-trial briefs for agreement. On 25 March 2024, the SPO reiterated its request that the Defence also consider the proposed facts from the *Mustafa* trial judgment, which were not specifically addressed in the joint Defence response.

5. The SPO will report to the Panel as to any agreement reached on facts, witnesses, or evidence.

6. Annex 1 is confidential as it includes confidential *inter partes* correspondence and to give effect to existing protective measures.

Word Count: 553



Kimberly P. West

Specialist Prosecutor

Monday, 25 March 2024

At The Hague, the Netherlands.