

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: Specialist Counsel for Hashim Thaçi
Specialist Counsel for Kadri Veseli
Specialist Counsel for Rexhep Selimi
Specialist Counsel for Jakup Krasniqi

Date: 11 September 2024

Language: English

Classification: Public

Public Redacted Version of Joint Defence Response to Prosecution motion for admission of evidence of Witnesses W03885, W04422, and W04669 pursuant to Rule 154 and related request with Confidential Annexes 1 - 3

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I. INTRODUCTION

1. The Defence for Messrs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi (“Defence”) hereby files a consolidated response to the Prosecution motion for admission of evidence of Witnesses W03885, W04422, and W04669 pursuant to Rule 154 and related request.¹ The Annexes contain objections to documents the SPO intends to use with these witnesses, as well as the Defence estimates for cross-examination.

2. This filing is submitted confidentially because it responds to documents with the same classification.²

II. SUBMISSIONS

A. W03885

3. The Defence objects to the admission of W03885’s statements³ under Rule 154. While the statements are *prima facie* authentic, the Defence submits that there are no efficiency gains to be made as a result of their admission, since the evidence contained in these statements, totalling 60 pages, mainly refers to a single event in which the witness participated. Notwithstanding that time-savings are not the main objective of admission under Rule 154, since this would be W03885’s first time testifying regarding the events in question, it would be in the interests of justice to have this evidence heard

¹ KSC-BC-2020-06/F02469, Prosecution motion for the admission of the evidence of witnesses W01234, W01338, W01743, W04423, W04570, W04696, W04812, W04859, and W04860 pursuant to Rule 153 with confidential Annexes 1-9, 24 July 2024, Confidential (“F02469”).

² Rule 82(4) of the Rules of Procedure and Evidence on the Kosovo Specialist Chambers (“Rules”).

³ 051757-051760-ET RED2, 070966-TR-ET Part 1 RED, 070966-TR-ET Part 2 RED2, 070966-TR-ET Part 3 RED.

viva voce. Despite W03885's limited participation in the alleged [REDACTED], this incident is one of the central charges of the indictment against the Accused. The Defence submissions with regards to the importance and centrality of [REDACTED] evidence to the SPO's case⁴ are upheld with regards to W03885 considering that the evidence of both witnesses refers to the same incident. Finally, should the statements tendered for admission under Rule 154 be admitted, no objection to the proposed associated exhibit is raised⁵.

B. W04422

4. The Defence does not object to the admission of W04422's previous statements via Rule 154.

5. The Defence does wish to highlight an error in the page range identified for admission as SPOE00119681-00119713 RED2 (Item 3 of Annex 2) which will need to be rectified before admission. The page range identified includes the testimony of a second witness, which is not tendered for admission. These pages therefore need to be removed from the Rule 154 package. They are SPOE 00119690-SPOE00119696 RED2 in the English and SPOE 00119707- SPOE00119713 RED2 in the Albanian.

⁴ KSC-BC-2020-06/F01857, Specialist Counsel, Joint Defence Response to the Prosecution Motion for Admission of Evidence of Witnesses W03170, W04043, W04444, W04571, W04765, W04811, and W04870 Pursuant to Rule 154 and Related Requests (F01830), 13 October 2023, confidential, paras [REDACTED]; KSC-BC-2020-06/F01380, Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, 16 March 2023, para. [REDACTED].

⁵ 070964-070965.

C. W04669

6. W04669's proposed Rule 154 evidence comprises his SPO interview, on [REDACTED],⁶ and his testimony in *Specialist Prosecutor v. Mustafa* (KSC-BC-2020-05) on [REDACTED].⁷ W04669 testified live in the *Mustafa* case, over two days, therefore his testimony covers the same issues as his SPO interview and is more exhaustive, being subject to questions from all the parties and the Panel. In these circumstances, the Defence does not object to the admission of W04669's testimony in the *Mustafa* case but questions the necessity to admit, simultaneously, his four parts SPO interview, which is redundant and would unnecessarily burden the record.

7. The Defence does not object to the admission of W04669's proposed associated exhibit.⁸

III. CONCLUSION AND RELIEF REQUESTED

8. For the foregoing reasons, the Defence respectfully requests that the Trial Panel to take notice of the Defence objections and to:

- (a) **DENY** the admission of W03885's evidence through Rule 154 and ORDER the SPO to elicit his evidence *viva voce*;
- (b) **TAKE NOTE** of the additional Defence objections outlined in Annexes 1-3.

Word count: 678

⁶ 082023-TR-ET Parts 1-4 RED4.

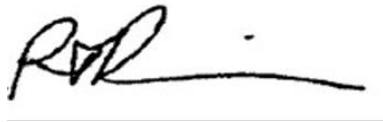
⁷ KSC-BC-2020-05 20211110 ENG; KSC-BC-2020-05 20211111 ENG.

⁸ 082020-082022 RED3, p.082022.

Respectfully submitted on 11 September 2024



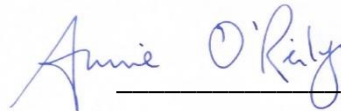
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