

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

Date: 20 November 2024

Language: English

Classification: Public

Joint Defence Request for Leave to Sur-Reply to “Prosecution reply relating to request to admit expert witness evidence (F02633)”

Specialist Prosecutor’s Office

Kimberly P. West

Counsel for Hashim Thaçi

Luka Misić

Counsel for Kadri Veseli

Rodney Dixon

Counsel for Victims

Simon Laws

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

I. INTRODUCTION

1. The Defence for Messrs. Thaçi, Veseli, Selimi and Krasniqi (“Defence”) hereby files this request for leave to file a sur-reply to the Prosecution’s Reply¹ to the Defence Response,² to the Prosecution Motion for admission of evidence of W04826, W04874, and W04875 pursuant to Rules 138, 149, and 154 and related request.³

II. APPLICABLE LAW

2. Whereas the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”) do not provide regulations for the filing of a sur-reply, in practice, requests to sur-reply have been considered and granted by this Court in the past.⁴
3. In our submission, granting leave for the filing of a sur-reply would be covered by the Law. Specifically, Articles 40(6)(a) and 39(1) of the Law, provide the Panel with the power to rule on any preliminary motions and make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.⁵

III. SUBMISSIONS

4. The Defence submits that a Party should be granted leave to file a sur-reply, or further response, where the Reply raises a new issue.⁶ In the present situation,

¹ F02732, Specialist Prosecutor, *Prosecution reply relating to request to admit expert witness evidence (F02633)*, 18 November 2024 (“SPO Reply”).

² F02703, Specialist Counsel, *Joint Defence Consolidated Response to F02620 and F02633*, 8 November 2024 (“Defence Response”).

³ See e.g., F02633, Specialist Prosecutor, *Prosecution motion for admission of evidence of Witnesses W04826, W04874, and W04875 pursuant to Rules 138, 149, and 154 and related request with confidential Annexes 1-3*, 11 October 2024 (“SPO Expert Evidence Motion”).

⁴ F00326, Pre-Trial Judge, *Decision on SPO Request for Leave to Sur-Reply*, 28 May 2021.

⁵ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, 3 August 2015 (“Law”).

⁶ See e.g., ICTY, *Prosecutor v. Sainović & Ojdanić*, No. IT-99-37-AR65, *Decision on Provisional Release*, 30 October 2002, para. 5.

the SPO Reply contains new legal arguments as to the scope and application of Rule 149, that the SPO had not set out in its initial Experts Evidence Motion. If this request is granted, the Defence will make submissions that the SPO, amongst other inaccuracies, erred in their interpretation and application of Rules 149, 138 and 154, and the definition of an expert report.

5. The Defence is mindful to not put forward any arguments on the merits in this request, but limits its submissions to identifying the issue that prompted the need for a Defence sur-reply, which will be addressed in detail in the event that this request is granted by the Panel.
6. The Defence submits that in the interests of justice, the Panel should be provided with the most comprehensive legal arguments by the Parties before ruling on the SPO Experts Evidence Motion, and submits that the arguments filed to date by the Parties are insufficient to assist the Panel in their ruling.

IV. CONCLUSION

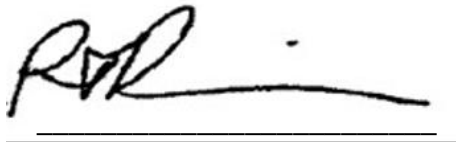
7. For the foregoing reasons, the Defence respectfully requests the Trial Panel to **GRANT** the Defence leave to file a sur-reply.

Word Count: 492

Respectfully submitted on Wednesday, 20 November 2024, at The Hague, the
Netherlands.



Luka Misetic
Counsel for Hashim Thaçi



Rodney Dixon KC
Counsel for Kadri Veseli



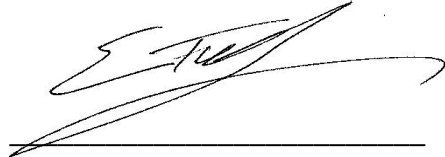
Kerrie Ann Rowan
Co-Counsel for Kadri Veseli



Annie O'Reilly
Co-Counsel for Kadri Veseli



Geoffrey Roberts
Lead Counsel for Rexhep Selimi



Eric Tully
Co-counsel for Rexhep Selimi



Chad Mair
Co-counsel for Rexhep Selimi



Rudina Jasini
Co-counsel for Rexhep Selimi



Venkateswari Alagenda
Lead Counsel for Jakup Krasniqi

Shyamala Alagenda Khan
Co-Counsel for Jakup Krasniqi



Aidan Ellis
Co-Counsel for Jakup Krasniqi



Victor Băieșu
Co-Counsel for Jakup Krasniqi