

**In:** **KSC-BC-2020-06**  
**The 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:** 09 December 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of ‘Joint Defence Response to ‘Prosecution motion for admission of evidence of Witness W02183 pursuant to Rule 154’ with Confidential Annex 1’**

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## I. INTRODUCTION

1. The Defence for Messrs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi (“the Defence”) hereby respond to the ‘Prosecution motion for admission of evidence of Witness W02183 pursuant to Rule 154’.<sup>1</sup> In accordance with the order of the Trial Panel,<sup>2</sup> the present submissions respond to both the motion pursuant to Rule 154,<sup>3</sup> and the submissions pursuant to paragraphs 73 and 74 of the Order on the Conduct of Proceedings.<sup>4</sup> Annex 1 therefore contain objections to the exhibits the SPO intends to use with W02183, as well as the cross-examination estimates from the Defence.

## II. SUBMISSIONS

### A. RULE 154 STATEMENT

2. The Defence does not oppose the admission of W02183’s statement<sup>5</sup> pursuant to Rule 154, provided that the conditions of Rule 154(c) are met.

### B. ASSOCIATED EXHIBITS

3. If the Trial Panel deems W02183’s statement to be admissible pursuant to Rule 154, the Defence objects to the admission of the proposed associated exhibits identified below.<sup>6</sup>

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<sup>1</sup> KSC-BC-2020-06/F02752, *Prosecution motion for admission of evidence of Witness W02183 pursuant to Rule 154*, 28 November 2024, confidential (“SPO Request”).

<sup>2</sup> KSC-BC-2020-06, Transcript of Hearing (Oral Order), 3 December 2024, p. 23185, lines 10-24.

<sup>3</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 (“Rules”).

<sup>4</sup> KSC-BC-2020-06/F01226/A01, *Annex 1 - Order on the Conduct of Proceedings*, 25 January 2023, Public (“Order on the Conduct of Proceedings”).

<sup>5</sup> 101610-101634 RED; 101610-101634-AT RED.

<sup>6</sup> The Defence confirms it does not object to the admission of items 1, 3, 5, 7, 9, 10, 11 and 13 tendered by the SPO in Annex 1 to the SPO Request. The Defence also notes that items 4 and 8 are not tendered for admission.

4. Regarding SPOE00203165-00203171,<sup>7</sup> the Defence notes that this document is almost entirely redacted, including a portion that is referred to within W02183's statement.<sup>8</sup> The Defence therefore has insufficient notice of the content of the document, and is unable to fully ascertain its relevance or probative value. While the Defence acknowledges that the redactions were authorised [REDACTED], this authorisation does not remove the prejudice to the Defence of not being able to fully review and investigate the document. The statement itself provides no further illumination as to the content of the redacted portions, containing only a generic description. Further, the Defence observes that W02183's statement refers to only two paragraphs of the unredacted portion of the [REDACTED], which are both largely reproduced in the statement, and for which W02183 adds very little substantive evidence.<sup>9</sup> In these circumstances, the document is not an inseparable and indispensable part of the statement. It is also not clear what other aspects of this [REDACTED] the SPO intends to rely upon, or for what purpose, but this witness is neither the author of the document nor able to contextualise it. Admission should therefore be denied, particularly given the prejudice to the Defence of admitting a document which it cannot review.

5. Regarding SPOE00203174-00203187,<sup>10</sup> the Defence again notes that almost the entirety of the document is redacted, and it is therefore unable to fully review and investigate the document, as well as identify key information such as the author. W02183's statement contains a direct quote from only one paragraph of this [REDACTED], which is a broad, generalised, assumption about [REDACTED].<sup>11</sup> In response, W02183 then provides his own assumption, stating [REDACTED].<sup>12</sup> There

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<sup>7</sup> See F02752/A01, item 2.

<sup>8</sup> 101610-101634 RED, para. 37.

<sup>9</sup> 101610-101634 RED, paras. 36-37.

<sup>10</sup> See F02752/A01, item 6.

<sup>11</sup> 101610-101634 RED, para. 47.

<sup>12</sup> 101610-101634 RED, para. 47 (emphasis added).

is no indication that W02183 has personal knowledge of the content of this document, nor that he was involved in its authorship or creation; his ability to authenticate the document or provide substantive evidence on its content is therefore limited. It is unclear what relevance and probative value this document has, in addition to the already limited probative value of the unsubstantiated opinion offered by W02183 in his statement. Consequently, any limited probative value is outweighed by the prejudicial effect of admitting this document, which is, in any event, not an inseparable and indispensable part of his statement.

6. Regarding SITF00172727-00172735,<sup>13</sup> the Defence submits this document cannot be considered an inseparable and indispensable part of W02183's statement. W02183's statement records that he was shown this [REDACTED], and the [REDACTED].<sup>14</sup> Essentially, W02183's statement restates the title of the document, without adding substantive evidence. Contrary to the SPO's submissions,<sup>15</sup> the previous paragraph does not advance the position further, since it refers to the creation of the [REDACTED] without linking it in any way to the [REDACTED].<sup>16</sup> This may be because W02183 is neither mentioned in the document, nor indicated to be involved the authorship or creation of it, such that he is unable to provide meaningful evidence on it. Further, the relevance of this document to these proceedings has not been clearly demonstrated by the SPO, and on its face, appears to be limited. Therefore, any limited probative value in this document is outweighed by the prejudicial effect, and admission should be denied.

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<sup>13</sup> See F02752/A01, item 12.

<sup>14</sup> 101610-101634 RED, para. 83.

<sup>15</sup> F02752/A01, item 12, p. 6, noting "Discussed in 101610-101634 RED, paras 82-83."

<sup>16</sup> 101610-101634 RED, para. 82.

### III. CLASSIFICATION

7. The present submissions are filed confidentially pursuant to Rule 82(4). A public redacted version will be filed as soon as possible.

### IV. CONCLUSION AND RELIEF SOUGHT

8. In light of the foregoing, the Defence respectfully requests the Trial Panel to:
- (i) **TAKE NOTE** of the Defence submissions; and
  - (ii) **REJECT** the admission of the associated exhibits identified in paragraphs 4 to 6 above.

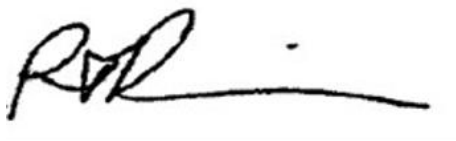
[Word count: 946 words]

Respectfully submitted on 9 December 2024



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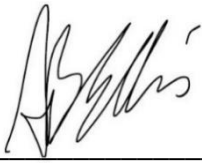
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