



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: 5 May 2025

Language: English

Classification: Public

Public Redacted Version of
'Consolidated Prosecution reply to responses F03146 and F03147'

Specialist Prosecutor's Office

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1. The Responses¹ to the Request² fundamentally mischaracterise the efforts made to secure W04747's testimony, the case record concerning this witness, and the nature of a *prima facie* admissibility assessment.³

2. More than reasonable efforts have been made to secure W04747's testimony.⁴ [REDACTED].⁵ [REDACTED] of the 1 April 2025 hearing date [REDACTED],⁶ and when W04747 did not appear on that date there was no purpose in continuing the hearing to 9 April 2025 (which would have been futile in any event).⁷ The Defence resisted any oral Rule 155 litigation at the 1 April 2025 hearing,⁸ and cannot reasonably claim in writing after the SPO closed its case⁹ that more should have been done to secure W04747's testimony.

3. The Responses make numerous misrepresentations about W04747 and the

¹ Thaçi, Selimi and Krasniqi Defence Response to Prosecution motion for admission of evidence of W04747 pursuant to Rule 155, KSC-BC-2020-06/F03146, 25 April 2025, Confidential (with annex; notified on 29 April 2025) ('THAÇI-SELIMI-KRASNIQI Response'); Veseli Defence Response to Prosecution motion for admission of evidence of W04747 pursuant to Rule 155 (F03069), KSC-BC-2020-06/F03147, 25 April 2025, Confidential (with two annexes; notified on 29 April 2025) ('VESELI Response') (collectively, 'Responses').

² Prosecution motion for admission of evidence of W04747 pursuant to Rule 155, KSC-BC-2020-06/F03069, 1 April 2025, Confidential (with annex) ('Request').

³ Preliminarily, the VESELI Defence gave the impression of seeking a 4,000 word extension (namely 10,000 words) for a joint Defence response to the Request. Email from the Veseli Defence, 8 April 2025, at 15:16 ('[t]he Defence requests an extension of words to respond to F03069 to 10,000. [...] Despite the best efforts of the Defence to reduce its submissions, this is the minimum number of words required by the Defence to deal with the issues at hand in a fair and diligent manner'), *partly granted by* Email on behalf of the Trial Panel, 11 April 2025, at 14:26 (partly granting 'the Defence request' for any response). When the Panel granted only 1,000 extra words (for a total of 7,000), the Defence teams circumvented this limit by breaking up its response across two filings of nearly 7,000 words each. Such tactics offend the spirit of the Panel's ruling. When a similar issue arose recently, the Defence (more appropriately) sought reconsideration of the decision on the word limit. Transcript of Hearing, 23 April 2025, T.26181-83.

⁴ *Contra* VESELI Response, KSC-BC-2020-06/F03147, paras 17-24.

⁵ Request, KSC-BC-2020-06/F03069, para.12.

⁶ [REDACTED].

⁷ [REDACTED]. [REDACTED].

⁸ Transcript of Hearing, 1 April 2025, T.26117-18.

⁹ Prosecution notice pursuant to Rule 129, KSC-BC-2020-06/F03121, 15 April 2025.

broader case record. Examples include the Defence:

- i. [REDACTED].¹⁰ [REDACTED].¹¹ [REDACTED].¹² [REDACTED].¹³
 - ii. [REDACTED].¹⁴ [REDACTED].¹⁵ [REDACTED].¹⁶ [REDACTED].¹⁷
[REDACTED].¹⁸
 - iii. [REDACTED].¹⁹ [REDACTED].²⁰
 - iv. [REDACTED].²¹ [REDACTED].²² [REDACTED].²³ [REDACTED].²⁴
[REDACTED].
 - v. Questioning the existence of a climate of intimidation on grounds that W04747 was the only witness who failed to attend due to improper interference in the lifetime of these proceedings.²⁵ This (already caveated²⁶) submission plainly undersells the effects of this climate, arbitrarily ignoring the impact it has caused on witnesses who still appeared to testify.²⁷
4. The Defence goes well beyond a *prima facie* admissibility assessment in

¹⁰ VESELI Response, KSC-BC-2020-06/F03147, para.27.

¹¹ Annex 2 of the VESELI Response, KSC-BC-2020-06/F03147, pp.37-38.

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, paras 15, 49; VESELI Response, KSC-BC-2020-06/F03147, para.85.

¹⁵ [REDACTED].

¹⁶ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, paras 45-47.

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, paras 22-23.

²⁰ [REDACTED].

²¹ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, para.14.

²² 083220-TR-ET Part 13, pp.12-18.

²³ [REDACTED].

²⁴ *Contra* VESELI Response, KSC-BC-2020-06/F03147, para.46 [REDACTED].

²⁵ VESELI Response, KSC-BC-2020-06/F03147, para.37.

²⁶ VESELI Response, KSC-BC-2020-06/F03147, para.37, n.25.

²⁷ For more, *see* Prosecution motion for admission of obstruction related materials, KSC-BC-2020-06/F03120, 15 April 2025, para.6.

challenging W04747's evidence, and there is no reason why the Trial Panel cannot consider the issues raised as matters of weight. There is no reason why the Panel – as a question of *prima facie* admissibility – needs to entertain [REDACTED],²⁸ [REDACTED],²⁹ [REDACTED].³⁰ The same is true for whether the Defence's asserted 'inconsistencies' in W04747's evidence are meaningful, such as [REDACTED],³¹ [REDACTED],³² and/or [REDACTED].³³ The Panel should be able to consider W04747's evidence in full so as to be able to properly contextualise his account against the totality of the evidence.³⁴

5. Nowhere is it more apparent that the Defence submissions transcend a *prima facie* assessment than with the (selectively and recently taken) witness statements presented for the first time in the VESELI Defence response.³⁵ None of this additional material should be considered - this Panel has already determined that untendered and unadmitted statements will not be considered for *prima facie* admissibility, and the Defence unsuccessfully sought leave to appeal on this very point.³⁶ W04747's account has enough inherent credibility and reliability to justify admission, and if the

²⁸ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, para.10.

²⁹ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, para.17.

³⁰ VESELI Response, KSC-BC-2020-06/F03147, para.44, *responding to Request*, KSC-BC-2020-06/F03069, para.18. [REDACTED].

³¹ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, para.19.

³² THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, paras 35-36.

³³ THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, paras 39, 41.

³⁴ *Contra* THAÇI-SELIMI-KRASNIQI Response, KSC-BC-2020-06/F03146, para.2. Needless to say, excluding the 116 pages of extracts across Annex 1 of the THAÇI-SELIMI-KRASNIQI Response would render W04747's evidence incomprehensible.

³⁵ VESELI Response, KSC-BC-2020-06/F03147, paras 49-56; Annex 2 of the VESELI Response, KSC-BC-2020-06/F03147/A02.

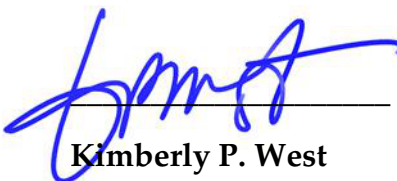
³⁶ Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01603, 16 June 2023, Confidential, paras 19, 50, 52, 126; Decision on Thaçi, Veseli & Krasniqi Defence Request for Certification to Appeal the 'Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155', KSC-BC-2020-06/F01671, 13 July 2023, para.32 ('only the inconsistencies within the offered statements or between those statements and the already admitted evidence hold relevance for the purpose of admission [...] [t]here is no basis in the Rules or in practice identified by the Defence that would authorise or require the Panel to decide admission of proposed evidence based on items which neither Party proposes to tender on the record').

VESELI Defence wishes to challenge his evidence it can call witnesses during its case.³⁷
But the SPO cannot be prevented from discharging its burden of proof just because the VESELI Defence does not want to challenge this evidence.³⁸

6. The case to date has occurred in a climate of witness intimidation. But it is not defined by that climate, largely because the Rules provide procedures to ensure that the evidence is still admitted despite obstructive forces. W04747's voice deserves to be added to the others heard in this trial.

7. The Request meets all the Rule 155 criteria and should be granted.³⁹

Word Count: 1791


Kimberly P. West
Specialist Prosecutor

Monday, 5 May 2025

At The Hague, the Netherlands.

³⁷ See similarly KSC-BC-2020-06/F01603, para.126.

³⁸ *Contra* VESELI Response, KSC-BC-2020-06/F03147, para.77.

³⁹ This submission is confidential pursuant to Rule 82(4). A public redacted version is filed simultaneously.