

**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  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Victims' Counsel

**Date:** 28 May 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of Victims' Counsel's Request  
for admission of evidence pursuant to Rule 153  
with confidential annex 1**

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## I. INTRODUCTION

1. Pursuant to Article 22(6) and Article 37(1) and (3), 40(6) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law"), Rules 114(4)(a) and (5), 137, 138(1) and 153 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), and the Trial Panel's Oral Order of 23 April 2025,<sup>1</sup> Victims' Counsel seeks admission of written statements,<sup>2</sup> transcripts<sup>3</sup> and associated exhibits<sup>4</sup> ("proposed evidence") of six witnesses (Victim 07-06 ("V007"), [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], [REDACTED]/[REDACTED] and [REDACTED]/[REDACTED]) pursuant to Rule 153 of the Rules.
2. The proposed evidence is relevant and *prima facie* reliable, has probative value which is not outweighed by any prejudice, and meets the Rule 153 conditions.
3. Each of the proposed documents also meets the criteria of Rule 138 of the Rules. Specifically, they are relevant, have probative value and sufficient indicia of authenticity, and their probative value is not outweighed by any prejudicial effects.

## II. CLASSIFICATION

4. This submission is classified as confidential pursuant to Rule 82(3) of the Rules as it contains information that could identify victims participating in the proceedings ("VPPs") in this case who have been granted anonymity.

## III. PROCEDURAL HISTORY

5. On 23 April 2025, the Trial Panel ordered Victims' Counsel to submit, *inter alia*, any motions under Rule 153 by 28 May 2025.<sup>5</sup>

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<sup>1</sup> *Specialist Prosecutor v. Thaçi et al*, KSC-BC-2020-06, In Court – Oral Order, 23 April 2025, page 26177 line 1 to page 26177 line 21 ("Oral Order").

<sup>2</sup> In relation to V007: V007's Rule 153 statement, V0070038-V0070041 RED. [REDACTED].

<sup>3</sup> [REDACTED].

<sup>4</sup> [REDACTED].

<sup>5</sup> Oral Order.

6. Pursuant to paragraph 39 of the Order on the Conduct of Proceedings, on 16 May 2025, Victims' Counsel informed the Parties of this proposed evidence by email and invited them to indicate if they would agree to its admission under Rule 153. On 19 May 2025, the Defence replied that they did not agree to the admission of any of this evidence pursuant to Rule 153, and on 26 May 2025 the SPO replied that it did not object to its admission.

#### IV. APPLICABLE LAW

7. Rule 138(1) provides that “[u]nless challenged or *proprio motu* excluded, evidence submitted to the Panel shall be admitted if it is relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect. [...]”.
8. Pursuant to Rule 153 (1), the Panel may admit in lieu of oral testimony the written statement of a witness, or a transcript of evidence provided by a witness in proceedings before the Specialist Chambers, which goes to proof of a matter other than the acts and conduct of the Accused as charged in the indictment. Rule 153(1)(a) and (b) set out non-exhaustive lists of factors militating for and against the admission of a written statement or transcript in lieu of oral testimony.<sup>6</sup>
9. As noted by the Panel, “[p]ursuant to Rule 153(2), the written statement or transcript whose admission is sought in lieu of oral testimony shall: (i) be signed by the person who records and conducts the questioning and by the person who is questioned and his or her counsel, if present, as well as, where applicable, the Specialist Prosecutor or the Judge who is present; (ii) note the date, time and place of, and all persons present during the questioning; and (iii) note the reasons why, in exceptional circumstances, the person has not signed the record, if that is the case.”<sup>7</sup>
10. Rule 114(5) provides,

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<sup>6</sup> See also F01904, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153, 3 November 2023, para. 8.

<sup>7</sup> F01904, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153, 3 November 2023, para. 9.

Where evidence was not produced by the Parties or the produced evidence does not adequately address the impact the alleged crimes have on the personal interests of victims participating in the proceedings, Victims' Counsel may request the Panel to order the submission of relevant evidence or call witnesses to testify. In such cases, the Panel may order Victims' Counsel to disclose relevant material to the Parties, if this material is in his or her custody or control.

11. The Specialist Chambers have consistently held in relation to the modalities of victims' participation in the proceedings:

16. With regard to "acknowledgement", in the view of the Panel it must be understood, in the context of criminal proceedings before the KSC concerning the determination of the charges in the Confirmed Indictment against the Accused, as the victims' personal interest and right to have the harm they allegedly suffered recognised and, to that end, to contribute meaningfully, through the modalities of their participation, to the recognition of such harm and of the responsibility of those at the origin of it.

17. This interpretation is in line with – firstly – the findings of the Specialist Chamber of the Constitutional Court that victims have a fundamental right "to independent and effective investigation under the procedural heads of Articles 25 and 27 of the Constitution and Articles 2 and 3 of the Convention" and – secondly – the finding of the Grand Chamber of the European Court of Human Rights, in its judgment in the *El-Masri* case. The Grand Chamber underlined the importance of the right to truth not only for the victim and his family but also for other victims in similar cases and the general public who had the right to know what happened. It concluded that the applicant was deprived "of being informed of what had happened, including getting an accurate account of the suffering he had allegedly endured and the role of those responsible for his alleged ordeal" and that therefore, there had been a violation of the procedural head of Article 3 of the ECHR. The Panel is of the view that acknowledgment of serious breaches of human rights and international humanitarian law is a form of remedy that is as important, or even more important than, the right to compensation.

18. The aforementioned interpretation is also in line with the Rules. In this regard, Victims' Counsel, unlike the Parties, does not have an independent right to submit evidence but, in accordance with Rule 114(5) of the Rules, may only request the Panel to order the submission of relevant evidence or call witnesses to testify. The exercise of the Panels' power to order the submission of evidence, in accordance with Rule 132 of the Rules, is in turn contingent on the Panel finding it "necessary for the determination of the truth". Therefore, the Rules also necessarily make the victims' right to participate in the proceedings and to present evidence contingent on the establishment of the truth with regard to what allegedly happened to them and the responsibility of those involved therein. That being said, the Panel will

apply Rules 114(5) and 132 of the Rules in order to ensure that victims can meaningfully exercise such a right during trial proceedings.

19. In the view of the Panel, such a conclusion on the victims' rights in criminal proceedings before the KSC does not in any way affect the fact that it remains entirely incumbent on the SPO to prove to the requisite standard the different elements of the crimes contained in the Confirmed Indictment and the criminal responsibility of the Accused.<sup>8</sup>

## V. SUBMISSIONS

12. Victims' Counsel seeks admission of evidence in the form of written statements of six witnesses pursuant to Rule 153 of the Rules. All of these witnesses also have the status of a VPP. Five out of these six witnesses ([REDACTED]/[REDACTED], [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], [REDACTED]/[REDACTED]) were previously prosecution witnesses whom the Specialist Prosecutor's Office ("SPO") has indicated that it no longer wishes to rely on. In relation to these five individuals, Victims' Counsel seeks to admit prior statements relevant to the harm that they have suffered and continue to suffer. V007 is a single status victim whose evidence is intended to assist the Panel in determining his harm and the truth about the circumstances of, and background to, his arrest and detention.

### A. Proposed evidence of V007 should be admitted pursuant to Rule 153

13. Victims' Counsel requests the admission of V007's statement listed in Annex 1 for the purpose of determining (i) the truth about the role/status that V007 had at the time when he was arrested and detained by the KLA in [REDACTED], and (ii) the impact of the crimes committed against V007 on him and his life. As explained below, his evidence does not go directly to the acts and conduct of the Accused,

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<sup>8</sup> *Prosecutor v. Salih Mustafa*, KSC-BC-2020-05/F00152, Decision on victims' procedural rights during trial, 12 July 2021, paras 16-19; *Prosecutor v Pjetër Shala*, KSC-BC-2020-04/F00433, Decision on victims' procedural rights during trial and related matters, 24 February 2023, paras 25-28.

but rather concerns the clarification of his status and the determination of his harm.

14. Given that the proposed evidence addresses the facts and circumstances of V007's detention and that he has waived his protective measures vis-à-vis the Parties, Victims' Counsel requests the admission of V007 evidence through Rule 153 rather than as supplementary information on harm.<sup>9</sup>
15. *Relevance.* V007 was admitted as a VPP on 21 April 2021 in relation to his arrest and detention by the KLA in [REDACTED] and related sites in [REDACTED] municipality.<sup>10</sup> V007's proposed evidence concerns these events and the impact that they have had on his life. Therefore, V007's proposed evidence is relevant to the charges in the Indictment and for the purpose of the determination of the harm that he has suffered.
16. There is evidence on the record suggesting [REDACTED] constitutes part of V007's harm.
17. In his proposed evidence, [REDACTED]. Such a situation will necessarily affect the Panel's assessment of the evidence and hinder its ability to comprehensively determine facts about this incident and the harm suffered by V007. It would also be contrary to the VPP's right to "have the harm they allegedly suffered recognised and, to that end, to contribute meaningfully, through the modalities of their participation, to the recognition of such harm and of the responsibility of those at the origin of it."<sup>11</sup> This trial seems certain to be the only attempt to determine that truth in relation to the crime committed against V007.
18. In addition to his statement, Victims' Counsel submits, as associated exhibits, two of the documents [REDACTED]. The documents were provided by V007 to

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<sup>9</sup> V007 waived his protective measures vis-à-vis the Parties. [REDACTED].

<sup>10</sup> F00257, First Decision on Victims' Participation, 21 April 2021, paras 46, 56, 58; F00999, ANNEX 1 to Submission of confirmed amended Indictment, 30 September 2022, [REDACTED].

<sup>11</sup> *Prosecutor v. Salih Mustafa*, KSC-BC-2020-05/F00152, Decision on victims' procedural rights during trial, 12 July 2021, para. 16, see also paras 17-19; *Prosecutor v Pjetër Shala*, KSC-BC-2020-04/F00433, Decision on victims' procedural rights during trial and related matters, 24 February 2023, para. 25, see also paras 26-28.

Victims' Counsel. The documents demonstrate both his obvious concern about what had happened to him and the fact that he was not a [REDACTED].<sup>12</sup>

19. *Authenticity and reliability.* V007's statement consists of the account given by him during consultations since Victims' Counsel's assignment. V007 signed his statement confirming it to be truthful, accurate, and voluntary.<sup>13</sup>

20. *Suitability for Rule 153 admission.* Victims' Counsel submits that the proposed evidence as to the arrest and detention of V007 is of a cumulative nature as other witnesses have testified about it.<sup>14</sup>

21. As to the part of V007's proposed evidence which concerns his status at the time and prior to his arrest, it is submitted that the Defence had the opportunity to cross-examine [REDACTED], [REDACTED] and [REDACTED] on this issue. Furthermore, this matter does not go to the acts and conduct of the Accused. In the remaining aspects, the proposed evidence of V007 concern his continued harm and the impact of the crime on his life.

22. All these factors militate for the admission of V007's statement in lieu of his oral testimony.

23. Victims' Counsel notes that V007 currently enjoys the protective measure of anonymity towards the public and should this application be granted, his protective measures should continue to apply. As noted above, (see paragraph 14), his identity was disclosed to the Parties [REDACTED].<sup>15</sup>

**B. Proposed evidence of [REDACTED]/[REDACTED] should be admitted pursuant to Rule 153**

24. [REDACTED]/[REDACTED] was previously on the SPO witness list. [REDACTED], the SPO gave notice that it no longer intends to rely on his

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<sup>12</sup> V0070043-V0070044; V0070045-V0070046.

<sup>13</sup> V0070038RED-V0070041RED, at V0070041RED.

<sup>14</sup> [REDACTED].

<sup>15</sup> [REDACTED].



evidence.<sup>16</sup> The proposed evidence of this witness consists of the transcripts of two interviews conducted on [REDACTED] and [REDACTED] listed in Annex 1.<sup>17</sup> Victims' Counsel requests admission of this proposed evidence for the purpose of determining the impact of the crime concerned on [REDACTED]/[REDACTED].

25. *Relevance.* [REDACTED]/[REDACTED] was admitted to participate in these proceedings on [REDACTED] as a victim who had "[REDACTED]."<sup>18</sup> The proposed evidence contains the VPP's account of his detention, mistreatment and beatings at [REDACTED] and their consequences for him, including his admission to a psychiatric clinic [REDACTED], his need for his wife to help him with basic daily tasks and the fact that, as of [REDACTED], he was still receiving treatment for the consequences of his detention.<sup>19</sup>

26. *Authenticity and reliability.* [REDACTED]/[REDACTED]'s proposed evidence consists of the transcript of an audio recording of questioning of the witness by [REDACTED] in [REDACTED] in [REDACTED],<sup>20</sup> in the course of which he was cautioned as to his obligation to tell the truth, and a SPO statement from [REDACTED] in which the witness attested to the veracity of his [REDACTED] account,<sup>21</sup> provided further details of his ordeal<sup>22</sup> and described the ongoing effects of his detention, both psychological and physical.<sup>23</sup>

27. *Suitability for Rule 153 admission.* The proposed evidence is sought for the purpose of determining the harm stemming from the arrest, detention and mistreatment of [REDACTED]/[REDACTED]. The evidence of [REDACTED]/[REDACTED] is

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<sup>16</sup> [REDACTED].

<sup>17</sup> [REDACTED]. Attached to the [REDACTED] SPO statement are a copy of the transcript from the [REDACTED] hearing in [REDACTED] and a newspaper article about [REDACTED]. Victims' Counsel does not seek to rely on the newspaper article and notes that the transcript for the [REDACTED] is already sought for admission.

<sup>18</sup> [REDACTED].

<sup>19</sup> [REDACTED].

<sup>20</sup> [REDACTED].

<sup>21</sup> [REDACTED].

<sup>22</sup> [REDACTED].

<sup>23</sup> [REDACTED].



cumulative in nature, in terms of the facts that it pertains to. Other witnesses who have provided evidence about [REDACTED] include [REDACTED], [REDACTED], [REDACTED], [REDACTED], two of whom gave live evidence and were cross-examined by the Defence.<sup>24</sup> Furthermore, the proposed evidence does not go to the acts and conduct of the Accused.

28. All these factors militate for the admission of [REDACTED]/[REDACTED]'s statement in lieu of his oral testimony.

**C. Proposed evidence of [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], and [REDACTED]/[REDACTED] should be admitted pursuant to Rule 153**

29. [REDACTED]/[REDACTED], [REDACTED]/[REDACTED], and [REDACTED]/[REDACTED] were previously on the SPO witness list.<sup>25</sup> [REDACTED]. [REDACTED], the SPO gave notice that it no longer intends to rely on [REDACTED]/[REDACTED] in Case 06,<sup>26</sup> with the same notice in relation to [REDACTED]/[REDACTED] and [REDACTED]/[REDACTED] on [REDACTED].<sup>27</sup>

30. The proposed evidence of [REDACTED]/[REDACTED] comprises transcripts of his SPO interview of [REDACTED]<sup>28</sup> and of his statement in [REDACTED] on [REDACTED].<sup>29</sup>

31. The proposed evidence of [REDACTED]/[REDACTED] comprises [REDACTED] witness statement of [REDACTED],<sup>30</sup> Part 1 of [REDACTED] SPO interview of [REDACTED],<sup>31</sup> and [REDACTED] of [REDACTED].<sup>32</sup>

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<sup>24</sup> [REDACTED].

<sup>25</sup> F01611, Notification of Application Forms of Dual Status Witnesses to the Prosecution and Victims' Counsel Pursuant to F01348 With strictly confidential and *ex parte* Annexes 1-59, 16 June 2023.

<sup>26</sup> [REDACTED].

<sup>27</sup> [REDACTED].

<sup>28</sup> [REDACTED].

<sup>29</sup> [REDACTED].

<sup>30</sup> [REDACTED].

<sup>31</sup> [REDACTED].

<sup>32</sup> [REDACTED].

32. The proposed evidence of [REDACTED]/[REDACTED] comprises the transcript of Part 2 of his SPO interview of [REDACTED],<sup>33</sup> and the transcript of his testimony in [REDACTED] of [REDACTED].<sup>34</sup>
33. *Relevance.* [REDACTED]/[REDACTED], [REDACTED]/[REDACTED] and [REDACTED]/[REDACTED] were all admitted to participate in these proceedings on [REDACTED] on the basis that they “[REDACTED]”<sup>35</sup>
34. In the proposed evidence, the three witnesses give details concerning the detention and death of their relative, the [REDACTED] and the ongoing harm that they suffer as a result of the crimes committed against the murder victim.
35. *Authenticity.* The documents are [REDACTED] statement and interviews conducted by the SPO in which the witnesses were informed of their rights<sup>36</sup> and confirmed that their statements were voluntary, accurate and true to the best of their knowledge and belief,<sup>37</sup> and [REDACTED].
36. *Suitability for admission under Rule 153.* The proposed evidence is sought for the purpose of determining harm stemming from the arrest, detention, and killing of the family member of the three witnesses. This evidence is of a cumulative nature in terms of facts that it pertains to. [REDACTED]<sup>38</sup> and received testimony from four crime-base witnesses,<sup>39</sup> one of whom testified and was cross-examined.<sup>40</sup>
37. All these factors militate for the admission of the statements of [REDACTED]/[REDACTED], [REDACTED]/[REDACTED] and [REDACTED]/[REDACTED] in lieu of their oral testimony.

**D. Proposed evidence of [REDACTED]/[REDACTED] should be admitted pursuant to Rule 153**

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<sup>33</sup> [REDACTED].

<sup>34</sup> [REDACTED].

<sup>35</sup> [REDACTED].

<sup>36</sup> [REDACTED].

<sup>37</sup> [REDACTED].

<sup>38</sup> [REDACTED].

<sup>39</sup> [REDACTED].

<sup>40</sup> [REDACTED].

38. [REDACTED]/[REDACTED] was previously on the SPO witness list.<sup>41</sup> [REDACTED], the SPO gave notice that it no longer intends to rely on [REDACTED] evidence.<sup>42</sup> The proposed evidence of this witness consists of the transcript of an interview conducted by the SPO on [REDACTED].<sup>43</sup> Victims' Counsel requests admission of this proposed evidence for the purpose of determining the impact of the crime concerned on [REDACTED]/ [REDACTED] and [REDACTED] family members [REDACTED].
39. *Relevance.* [REDACTED] was admitted to participate in these proceedings on [REDACTED], as one of a number of "[REDACTED]."<sup>44</sup>
40. In the proposed evidence, [REDACTED]/[REDACTED] describes the immediate circumstances of [REDACTED]'s arrest, including the [REDACTED] and were present during the arrest of [REDACTED], their behaviour (including how [REDACTED], how they called [REDACTED] and that they [REDACTED], and that at some point those who came to arrest [REDACTED] [REDACTED]/[REDACTED] and [REDACTED]), and how [REDACTED].<sup>45</sup> Finally, [REDACTED]/[REDACTED] provides evidence of the harm and impact that [REDACTED]'s arrest, detention and killing have had on [REDACTED].<sup>46</sup>
41. For these reasons [REDACTED]/[REDACTED]'s proposed evidence is relevant to the charges in the Indictment and for the purpose of determination of the harm that [REDACTED] have suffered.
42. *Authenticity and reliability.* [REDACTED]/[REDACTED]'s proposed evidence is a transcript of an interview that the SPO conducted with [REDACTED] on [REDACTED], at the beginning of which the witness was informed about

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<sup>41</sup> F01611, Notification of Application Forms of Dual Status Witnesses to the Prosecution and Victims' Counsel Pursuant to F01348 With strictly confidential and *ex parte* Annexes 1-59, 16 June 2023.

<sup>42</sup> [REDACTED].

<sup>43</sup> [REDACTED].

<sup>44</sup> [REDACTED].

<sup>45</sup> [REDACTED].

<sup>46</sup> [REDACTED].

[REDACTED] rights.<sup>47</sup> At the end of the interview [REDACTED]/[REDACTED] confirmed that [REDACTED] gave [REDACTED] statement voluntarily and that it is truthful and accurate to the best of [REDACTED] knowledge and belief.<sup>48</sup>

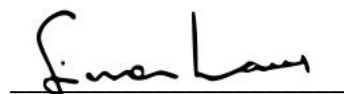
43. *Suitability for admission under Rule 153.* The proposed evidence is sought for the purpose of determining harm stemming from the arrest, detention, and killing of [REDACTED]/[REDACTED]'s [REDACTED]. This evidence is of cumulative nature in terms of the facts that it pertains to. Other witnesses gave evidence about these events including [REDACTED], [REDACTED], and [REDACTED], two of whom testified in court<sup>49</sup> and were cross-examined by the Defence. Furthermore, the proposed evidence does not go to the acts and conduct of the Accused.

44. All these factors militate for the admission of [REDACTED]/[REDACTED]'s statement in lieu of [REDACTED] oral testimony.

## VI. CONCLUSION

45. For the foregoing reasons, Victims' Counsel respectfully requests the Trial Panel to admit into evidence the documents discussed above and listed in Annex 1.

**Word count: 4272**



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28 May 2025  
At The Hague, the Netherlands.

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<sup>47</sup> [REDACTED].

<sup>48</sup> [REDACTED].

<sup>49</sup> [REDACTED].