

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 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: 16 June 2025

Language: English

Classification: Confidential

Joint Defence Reply to Prosecution response to joint Defence request for certification F03210

Specialist Prosecutor

Kimberly P. West

Counsel for Victims

Simon Laws KC

Counsel for Hashim Thaçi

Luka Mišetić

Counsel for Kadri Veseli

Rodney Dixon KC

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

I. INTRODUCTION

1. The Defence for Messrs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi ("Defence") hereby replies to the Prosecution response¹ to joint Defence request for certification F03210.² The Defence limits its reply to the SPO submissions on the first Issue³ arising from the Impugned Decision.⁴

II. SUBMISSIONS

2. While the standard for admission may not require absolute proof but verification of *prima facie* authenticity,⁵ the Defence submits that in the Impugned Decision, the Trial Panel, by relying *only* on indicia supporting authenticity and ignoring indicia undermining authenticity, admitted documents which failed to meet the test of *prima facie* authenticity.⁶

3. The Defence, in its Request, quoted paragraph 34 of the Impugned Decision⁷ since it illustrates the fact that the Trial Panel only listed indicia in support of authenticity of items 7-29 of Annex 1, such as the presence of a date or signature, and failed to engage with any substantial objection developed by the Defence concerning the authenticity of these documents.⁸ The Defence stresses that the Trial Panel adopted the same approach for numerous items⁹ listed, *inter alia*, in paragraphs 56, 58, 73, 101,

¹ KSC-BC-2020-06/F03244, Prosecution response to joint Defence request for certification F03210, Confidential, 10 June 2025 ("Response").

² KSC-BC-2020-06/F03210, Joint Defence Request for Certification to Appeal the Decision on Prosecution Motion for Admission of General Staff and PGoK Documents (F03191), 29 May 2025, Confidential ("Request").

³ Request, para. 2(i).

⁴ KSC-BC-2020-06, F03191, Trial Panel, Decision on Prosecution Motion for Admission of General Staff and Provisional Government of Kosovo Documents, 21 May 2025, confidential ("Impugned Decision").

⁵ Response, para. 4.

⁶ Request, para. 2(i).

⁷ Response, para. 5.

⁸ See column 'Defence comments' for items 7-29 in Annex 1 to KSC-BC-2020-06/F03145, Joint Defence Response to Prosecution motion for admission of General Staff and Provisional Government of Kosovo documents (F03065) With Confidential Annexes 1-3, 25 April 2025, Confidential.

⁹ See *contra*, Response, para. 5.

102, 116, 128, and 129 of the Impugned Decisions.¹⁰ For instance, the Defence submitted a detailed objection to the admissibility of item 53 of Annex 3, which purports to be Letter from Mr Thaçi, dated 29 June 1999. The Defence argued, *inter alia*, that it lacked *prima facie* authenticity and appeared to be a fake document, since Mr Thaçi's name was misspelled twice, Mr Thaçi denied being his author, the document had no letterhead and was written in English while it was allegedly addressed to the KLA.¹¹ In the Impugned Decision, the Trial Panel merely observed that item 53 of Annex 3 was dated and signed¹² and concluded that it bore sufficient indicia of authenticity,¹³ without engaging with the Defence objections.

4. Therefore, the Defence submits that the Trial failed to apply the proper standard of assessment of the authenticity of the items tendered by the SPO through the bar, by focussing only on factors supporting authenticity; intervention by the Court of Appeals Panel is warranted¹⁴ to clarify such standard and to remedy the prejudice caused to the Defence by the admission of a large amount of items which lack sufficient authenticity, at the close of the prosecution case; it will ensure the fairness of the proceedings and of their outcome. The Defence notes that Victims' Counsel has recently applied to tender several items through the bar and that additional bar table motions may be filed by the parties before the end of the case; therefore, the intervention of the Court of Appeals Panel will materially advance proceedings¹⁵ by setting a clear precedent regarding the admissibility criteria for any ulterior bar table motion.

¹⁰ Impugned Decision, paras 56, 58.

¹¹ See Column 'Defence comments' for item 53 in Annex 3 to KSC-BC-2020-06/F03145, Joint Defence Response to Prosecution motion for admission of General Staff and Provisional Government of Kosovo documents (F03065) With Confidential Annexes 1-3, 25 April 2025, Confidential, pp. 95-99.

¹² Impugned Decision, para. 116.

¹³ Impugned Decision, para. 121.

¹⁴ See *contra*, Response, paras 12, 14.

¹⁵ See *contra*, Response, para. 13.

III. CLASSIFICATION

5. The present submissions are filed as confidential pursuant to Rule 82(4) of the Rules.¹⁶ The Defence has no objection to their reclassification as public.

IV. CONCLUSION

6. For the above reasons and those stated in its Request, the Defence respectfully requests the Panel to grant certification to appeal the Three Issues.

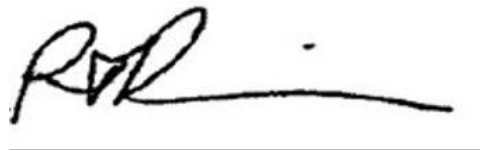
Word count: 715 words

Respectfully submitted on 16 June 2025



Luka Mišetić
Counsel for Hashim Thaçi

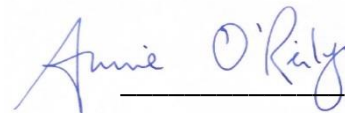
¹⁶ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ("Rules").



Rodney Dixon KC
Lead Counsel for Kadri Veseli



Kerrie Ann Rowan
Co-Counsel for Kadri Veseli



Annie O'Reilly
Co-Counsel for Kadri Veseli



Geoffrey Roberts
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 Alagendra
Counsel for Jakup Krasniqi



Aidan Ellis
Co-Counsel for Jakup Krasniqi



Shyamala Alagendra Khan
Co-Counsel for Jakup Krasniqi



Victor Băieșu
Co-Counsel for Jakup Krasniqi