

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 Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

Date: 13 November 2025

Language: English

Classification: Public

Thaçi Defence Request Related to W04752

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I. INTRODUCTION

1. W04752 is a core witness in the present proceedings, whose evidence covers almost the entire geographic and temporal scope of the Indictment, and addresses topics that are central to the SPO case. During his testimony before the Panel in July 2024, W04752 pronounced on issues directly probative of the main allegations in this case.
2. Importantly, the SPO indicated that W04752 is implicated in its investigation into obstruction and interference of its witnesses,¹ and that material arising from this investigation (the “Obstruction Material”) is relevant to “clarify, challenge, and/or contextualise” his evidence,² which led the Panel to admit the Obstruction Material, “for the limited purpose of assessing the credibility of witnesses and the existence of a climate of witness intimidation in the present proceedings”.³
3. In this context, given the unique position from which he experienced the indictment events, the breadth of his testimony and its relevance to the case, W04752’s credibility is of central importance. His evidence indisputably could impact the outcome of the case on particular counts and charges.
4. The Defence for Mr Hashim Thaçi (the “Defence”) sought admission of five prior statements of W04752⁴ (“Five Statements”), pursuant to Rule 138(1) of the

¹ KSC-BC-2020-06/F02279, *Prosecution request to amend the Exhibit List with confidential Annex 1*, 1 May 2024, confidential (“F02279”), para. 1

² *Ibid.*, para. 2.

³ KSC-BC-2020-06/F03216, *Decision on Prosecution Motion for Admission of Obstruction Related Materials*, 29 May 2025, confidential (“Decision on Obstruction Related Materials”), para. 72(c); see also paras 38 and 65.

⁴ IT-04-84 T3154-T3255 / IT-04-84 T3173-T3242-AT Revised, ‘IT-04-84, Haradinaj *et al*, testimony of Witness W04752 T3171-T3247, 23 April 2007’ ; IT-04-84bis T675-T771 / IT-04-84bis T675-T771-AT, ‘ICTY, Transcript of Testimony of W04752, dated 26 August 2011, Case No. IT-04-84bis-T’ ; IT-03-66 T6757-T6836 / IT-03-66 T6818-T6836-AT, ‘ICTY, Public Transcript of hearing Limaj *et al*, Testimony of W04752, 1 June 2005’ ; U016-0791-U016-0817 RED / U016-0791-U016-0817-AT RED, ‘Redacted version of ICTY Witness Statement of W04752, dated 15 April, including Annex of two Maps marked by the witness at Annex A (villages visited from Glogjan indicated in numerical order) and B (indicated in red area of

Rules, to show the consistency and reliability of his evidence and to rebut any eventual SPO allegation of recent fabrication of evidence by W04752.⁵

5. The Panel denied their admission, on the ground that Rules 153-155 are *leges speciales* in respect of evidence that comes within the scope of the notion of witness statement,⁶ and that the proposed items constitute 'statements' of a witness which cannot be admitted pursuant to Rule 138, absent an agreement by the SPO, this being "without prejudice to the possibility for the Defence to seek admission pursuant to the applicable Rule as part of its case".⁷
6. The Defence filed an Appeal against this decision,⁸ which was dismissed by the Court of Appeals Panel on 10 November 2025,⁹ after the Defence filed its Witness List.¹⁰
7. Given that the Court of Appeals Panel has denied the Defence's Appeal, the Defence now requests leave to add W04752 to its Witness List in accordance with Rule 119(5) of the Rules,¹¹ and seeks admission of his Five Statements pursuant to Rules 153 and 138, for the limited purpose of showing the consistency of his evidence, and not to prove the acts and conduct of the Accused. As detailed below, the Five Statements meet the requirements of the

Reka e Keqe visited and route; Serbian positions indicated in red circles)' ; SPOE00183317-00183342 RED / SPOE00183317-00183342-AT RED, 'Redacted version of ICTY, Witness Statement of W04752, dated 22 and 25 November 2005'.

⁵ KSC-BC-2020-06/F03254, *Thaçi Defence Request for Admission of Prior Statements of W04752*, 12 June 2025, confidential (PRV notified on 18 July 2025) ("F03254"), paras 1-4.

⁶ KSC-BC-2020-06/F03327, *Decision on Thaçi Defence Request for Admission of Prior Statements of W04752*, 11 July 2025 (confidential, reclassified as public on 30 October 2025) ("F03327"), para. 20.

⁷ F03327, para. 21.

⁸ KSC-BC-2020-06/IA041/F00002, *Thaçi Defence Appeal of the Decision on Request for Admission of Prior Statements of W04752*, 21 August 2025, confidential ("IA041/F00002" or "Appeal").

⁹ KSC-BC-2020-06/IA041/F00005, *Decision on Thaçi Appeal Against Decision on Admission of W04752's Prior Statements*, 10 November 2025, public ("IA041/F00005").

¹⁰ KSC-BC-2020-06/F03357, *Thaçi Defence Submission of Witness and Exhibit Lists with Confidential and Ex Parte Annexes 1 and 2 and Confidential Annexes 3 and 4*, 21 July 2025, confidential.

¹¹ KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence before the Kosovo Specialist Chamber ("Rules").

Rules, are relevant, authentic, reliable, and have probative value, which is not outweighed by any prejudice.

8. The addition of W04752's to the Defence's Witness List and the admission of his Five Statement are therefore in the interests of justice and necessary to ensure the fairness of the trial and Mr Thaçi's's right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him, in accordance with Article 6(1) and (3)(d) of the European Convention of Human Rights ("ECHR") and Article 21(2) and (4)(f) of the KSC Law.¹²

II. BACKGROUND

9. On 1st May 2024, the SPO requested the Panel's authorisation to amend the Exhibit List to include materials obtained in the course of investigations into obstruction and interference with witnesses, including W04752.¹³
10. W04752 testified before the Panel between 1 and 18 July 2024. During his cross-examination by the Defence, W04752 confirmed the accuracy of significant excerpts of the Five Prior Statements.¹⁴
11. On 8 July 2024, the Defence tendered the Five Statements, to be able to challenge eventual SPO allegations of interference.¹⁵ The SPO objected on the basis that it had not been allowed to question W04752 about witness interference.¹⁶ The Panel refused admission at that stage without prejudice and instructed the Thaçi Defence to tender W04752's Prior Statements once that

¹² Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("KSC Law").

¹³ KSC-BC-2020-06/F02279, *Prosecution Request to Amend the Exhibit List*, 1 May 2024, confidential (PRV filed on 6 September 2024), para. 1.

¹⁴ See F03254, para. 1, fn 3-7.

¹⁵ KSC-BC-2020-06, Transcript of 8 July 2024 (W04752 testimony), p. 17774.

¹⁶ *Ibid.*, p. 17792.

issue has arisen.¹⁷

12. On 22 August 2024, the Panel authorised the SPO to add the Obstruction Material to its Exhibit List.¹⁸
13. On 15 April 2025, the SPO filed its Prosecution motion for admission of obstruction related materials,¹⁹ just before closing its case.²⁰ On 2 May 2025, the Defence objected to such admission.
14. On 29 May 2025, the Panel granted, in part, the SPO motion seeking admission of the Obstruction Material into evidence.²¹
15. On 12 June 2025, the Defence filed a Defence Request for Admission of Prior Statements of W04752 pursuant to Rule 138(1),²² which was denied by the Panel on 11 July 2025.²³
16. On 16 July 2025, the Defence applied for leave to appeal this decision.²⁴ On 11 August 2025, the Trial Panel certified the following issue: “whether the Panel erred in ruling that Rules 153-155 are *leges speciales* for admissibility of prior consistent statements on cross-examination”.²⁵
17. The Defence filed its Appeal on 21 August 2025.²⁶ The SPO responded on 1

¹⁷ *Ibid.*, p. 17792-17793.

¹⁸ KSC-BC-2020-06/F02501, *Decision on Prosecution Request to Amend the Exhibit List (F02279) and on Thaçi Defence Motion for Exclusion of Materials in Limine*, 22 August 2024, confidential (PRV issued on 20 December 2025) (“F02501”).

¹⁹ KSC-BC-2020-06/F03120, *Prosecution motion for admission of obstruction related materials with confidential Annexes 1-3*, 15 April 2025.

²⁰ KSC-BC-2020-06/F03121, *Prosecution notice pursuant to Rule 129*, 15 April 2025, Public.

²¹ Decision on Obstruction Related Materials.

²² F03254.

²³ F03327.

²⁴ KSC-BC-2020-06/F03335, *Thaçi Defence Request for Certification to Appeal the Decision on Request for Admission of Prior Statements of W04752*, 16 July 2025, confidential (PRV notified on 25 August 2025), para. 5.

²⁵ KSC-BC-2020-06/F03396, *Decision on Thaçi Defence Request for Certification to Appeal the Decision on Request for Admission of Prior Statements of W04752*, 11 August 2025, paras 11(1), 42(a).

²⁶ IA041/F00002.

September 2025, arguing that the appeal should be rejected.²⁷ It maintained, *inter alia*, that it remained “opened to Thaçi to seek admission in a manner that comports with the KSC’s legal framework,” and added that “for example, if the Five Statements were not being offered to prove the acts and conduct of the Accused, but to prove another matter (such as W04752’s consistency over time), then Thaçi could make the relevant request pursuant to Rule 153 and the SPO would respond accordingly.”²⁸

18. On 10 November 2023, the Court of Appeals Panel denied the Appeal, thus confirming the Trial Panel’s finding that Rules 153-155 are *leges speciales* for admissibility of prior consistent statements on cross-examination.²⁹

III. APPLICABLE LAW

19. Pursuant to article 6(1) and (3)(d) of the ECHR and Article 21(2) and (4)(f) of the KSC Law, the accused is entitled to a fair trial and to examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her.
20. Pursuant to Rule 119(5), the Panel may permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses. Thus, the Defence may seek to vary its list of witnesses after the commencement of the Defence case if it can show that this is in the interest of justice.³⁰ Relevant factors include the materiality and probative value of the testimony in relation to

²⁷ KSC-BC-2020-06/IA041/F00003, *Prosecution response to ‘Thaçi Defence Appeal of the Decision on Request for Admission of Prior Statements of W04752’ with public Annex 1*, 1 September 2025, public (“IA041/F00003”), para. 6.

²⁸ *Ibid.*, para. 6, fn 9.

²⁹ IA041/F00005, paras 46, 60.

³⁰ ICTR, *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on Casimir Bizimungu’s Motion to Vary Witness List; and to Admit Evidence of Witness in Written Form in Lieu of Oral Testimony*, 1 May 2008, para. 13.

existing witnesses and allegations in the Indictment; the complexity of the case; prejudice to the opposing party; justifications for the late addition of witnesses; and delays in the proceedings.³¹

21. According to Rule 153 of the Rules, a “[P]anel 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”.

IV. SUBMISSIONS

Request to add W04752 to the Defence Witness List.

22. It is not disputed that W04752 is a very significant witness for all the parties in this case, in light of the scope of his evidence, and as illustrated by the length of his cross-examination by the Defence and his questioning by the Panel. W04752, who entered Kosovo in May 1998, was initially assigned by the General Staff (“GS”) as an officer for training and professionalisation within the KLA GS Operations Directorate. Thereafter, he served as the head of the KLA Operations Directorate, then became Chief of the GS of the KLA. In April 1999, W04752 was assigned to the Provisional Government of Kosovo Ministry of Defence. Given his unique position and contacts with the Accused during the Indictment period, he provides crucial evidence about the charges in the Indictment.³²
23. Regarding the timing of the present request, the Defence stresses that when it first tendered W04752’s Five Statements in July 2024, admission was denied

³¹ *Ibid.*

³² The Defence notes that the SPO has submitted a witness summary and identified the relevant Indictment paragraphs for W04752’s evidence in KSC-BC-2020-06/F01594/A02, *Confidential Redacted Version of ‘Amended List of Witnesses’*, pp. 475-476.

and the Defence was invited to apply again when the issue of interference arose again, since it would be “more natural”, and the Panel promised that the Defence would not suffer any “penalty” by a later admission.³³ Following the admission of the Obstruction Material by the Panel, the Defence immediately sought admission of the Five Statements pursuant to Rule 138. As developed *supra*, the Trial Panel denied this request.

24. The Defence’s request to add W04752 to its Witness List at this stage of the proceedings is justified by the recent dismissal, by the Court of Appeals Panel,³⁴ of the Defence’s Appeal against the decision having denied the admission of his Five Statements under Rule 138. W04752 was not added earlier because he is a prosecution witness since the beginning of the case³⁵ and the Defence considered that the only way to tender the Five Statements used during his cross-examination was through Rule 138, as submitted consistently before the Trial Panel and the Court of Appeals Panel. Given that the Court of Appeals Panel has now ruled that W04752’s Five Statements can be tendered *only* through Rules 153-155, in the absence of an agreement to admission by the SPO,³⁶ the Defence seeks to add W04752 to its Witness List, in order to be able to tender his Five Statements pursuant to Rule 153 and to demonstrate the consistency and reliability of his evidence. The request is timely since it was filed shortly after the notification of the decision of the Court of Appeals Panel, issued on 10 November 2025.
25. In addition, the Defence stresses that, in the context of amendments of witness and exhibit lists in complex multi-accused trials in which a considerable amount of evidence is presented by the parties, a certain level of flexibility must

³³ KSC-BC-2020-06, Transcript of 8 July 2024 (W04752 testimony), pp. 17792-17793.

³⁴ IA041/F00005.

³⁵ KSC-BC-2020-06/F00542/A02/COR, *Corrected Version of Annex 2 to Prosecution submission of preliminary witness list*, confidential, p. 332.

³⁶ IA041/F00005, para. 39.

be maintained.³⁷

26. No undue prejudice is caused from the requested addition. The witness, and his evidence, are well-known by all the parties and participants since the beginning of the case. The Five Statements were disclosed by the SPO pursuant to Rule 102(1)(a)³⁸, in support of the arrest warrant, or Rule 102(b),³⁹ for use at trial. They were included both in the SPO Exhibit List⁴⁰ and in the Defence Exhibit List,⁴¹ the SPO being thus aware of the relevance of this witness and of the tendered material for the Defence case. The Five Statements were put to W04752 during his testimony in July 2024. The SPO itself suggested recently that the witness could be called as part of the Defence case and its Five Statements tendered through Rule 153.⁴² Last but not least, permitting the Defence to add W04752 to its Witness List is unlikely to cause any significant delay in the proceedings,⁴³ since the Defence seeks only admission of his evidence in writing, pursuant to Rule 153.
27. Accordingly, the Defence submits that it has demonstrated good cause for the

³⁷ See, for instance, KSC-BC-2020-06/F01058/CONF/RED, *Confidential Redacted Version of Decision on Prosecution Request to Add Two Witnesses and Associated Materials*, 27 October 2022, confidential, para. 30. See also KSC-BC-2020-06/F03546, *Decision on Thaçi Defence Further Request to Amend the Exhibit List*, 28 October 2025, public, para. 17.

³⁸ IT-04-84bis T675-T771 and SPOE00183317-00183342 RED were disclosed in Disclosure package 09 pursuant to Rule 102(a) on 11 December 2020.

³⁹ IT-03-66 T6757-T6836, IT-04-84 T3154-T3255 and U016-0791-U016-0817 RED were disclosed in Disclosure package 62 pursuant to Rule 102(1)(b) on 3 August 2021.

⁴⁰ See items n° 5161 (IT-03-66 T6757-T6836), 5846 (IT-04-84 T3154-T3255), 6093 (IT-04-84bis T675-T771), 9951 (SPOE00183317-00183342 RED) and 16006 (U016-0791-U016-0817 RED) in KSC-BC-2020-06/F03090/A01, *Annex 1 to Prosecution submission of amended exhibit list*, 7 April 2025, confidential.

⁴¹ See items n° 689/690 (IT-03-66 T6757-T6836 / IT-03-66 T6818-T6836-AT), 710/711 (IT-04-84 T3154-T3255 / IT-04-84 T3154-T3255), 712/713 (IT-04-84bis T675-T771 / IT-04-84bis T675-T771-AT), 782/783 (SPOE00183317-00183342 RED / SPOE00183317-SPOE00183342-AT RED) and 831/832 (U016-0791-U016-0817 RED / U016-0791-U016-0817 RED).

⁴² IA041/F00003, 1 September 2025, para. 6, fn 9.

⁴³ See, for instance, ICTR, *Prosecutor v Bizimungu et al*, No. ICR-99-50-T, *Decision on Casimir Bizimungu's Motion to Vary Witness List; and to Admit Evidence of Witness in Written Form in Lieu of Oral Testimony*, 1 May 2008, para. 14, where a Defence motion to vary its witness list was granted to add a witness where the prosecution had ample notice of his testimony and its addition would not delay the proceedings.

addition of W04752 to its Witness List.

Request to admit W04752's Five Statements pursuant to Rule 153

28. W04752's Five statements meet the test of admissibility under Rule 153.
29. *Authenticity & reliability.* The Five Statements are *prima facie* authentic. Each statement contains multiple indicia of authenticity and reliability. W04752's written statements provide, *inter alia*: (i) the date when the statement was given; (ii) the names of those present; (iii) the witness's personal details; (iv) the witness's declarations and/or acknowledgments; and (v) the witness' signature. W04752's transcripts of his testimonies in another jurisdiction include, *inter alia*: (i) dates, case number and formatting consistent with official records; (ii) a swearing-in and oath of truthfulness by the witness; and (iii) challenges and scrutinization of the statement via cross-examination.
30. *Relevance.* They are relevant and probative because in the Five Statements, dated of 2005, 2007 and 2011, the witness discusses his experience within the KLA during the Indictment period, and they demonstrate the consistency of W04752's statements over the years, before and after Mr Thaçi's detention visits of 2023 discussed in the Obstruction Material.
31. The Defence recalls that in its Decision on Obstruction Related Materials, the Panel observed, *inter alia*, that: Thaçi Transcript of 6 October 2023 concerns identifying confidential information of W04752; Thaçi Transcripts of 3 September 2023, 9 September 2023, and 7 October 2023, concern the testimony of W04752 who testified in July 2024; and a Seized Document recovered from Mr Smakaj during the SPO's judicially authorised search of the latter residence of 30 October 2023, contains information related to the subject matter of

W04752's testimony.⁴⁴

32. As noted by the Panel, it is part of the SPO's case that efforts to interfere with SPO witnesses in the context of what the SPO describes as a general climate of intimidation surrounding these proceedings might have affected their candour, truthfulness, and credibility as witnesses when they came to testify before this Panel.⁴⁵
33. In this context, the Defence seeks the admission of W04752's Five Statements as prior *consistent* statements, to demonstrate the reliability of his evidence and to challenge the impact (or lack thereof) of the Obstruction Material on the witness's credibility, since the Trial Panel deemed such Material relevant to assess the credibility of various prosecution witnesses, including W04752.⁴⁶
34. The admission of the Five Prior Statements will enable the Panel to properly assess whether W04752 is, or is not, consistent, and to determine in due course which parts to accept as the truth, and thus assign proper weight to W04752's evidence. What matters is that the Panel has all the relevant information before it to assess the Witness's credibility and the reliability of his evidence. The admission of the Five Prior Statements will enable the Panel to make that assessment⁴⁷ and will contribute to the establishment of the truth in this case.⁴⁸

⁴⁴ Decision on Obstruction Related Materials, para. 34, footnotes 94-96.

⁴⁵ F03327, para. 17.

⁴⁶ Decision on Obstruction Related Materials, para. 36.

⁴⁷ The fact that limited portions were read in Court is insufficient for this purpose. The Panel has made clear that it will base any and all findings and inferences on the evidence that is on the record of these proceedings and not on any information that has not been offered or admitted, which justifies the admission of the Five Statements in their entirety; see, *inter alia*, KSC-BC-2020-06/F02942, *Decision on Taçi Defence's Request to Compel the Specialist Prosecutor to Call Two Witnesses*, 18 February 2025, Confidential, para. 25.

⁴⁸ See, *mutatis mutandis*, KSC-BC-2020-06-F02790, *Decision on Prosecution Request for the Admission of W01453's Prior Statements Pursuant to Rule 143(2)(c)*, 16 December 2024, para. 11. See also Transcript of 18 February 2025 (Testimony of W04491), page 25390, l. 4-22, pursuant to which, at the Defence request, during W04491's cross-examination, the Trial Panel admitted a document containing a prior (inconsistent) statement of W04491, which was "relevant to deal with issues of credibility".

35. The Trial Panel thus rightly concluded that W04752's proposed evidence is "relevant to this case insofar as it might help the Panel assess the credibility of W04752 and the reliability of his evidence and thus supplement evidence already admitted in respect of this matter".⁴⁹
36. *Fairness.* In the current circumstances, any prejudicial effect of the admission of the Five Statement does not outweigh their probative value. Specifically, the Five Statements: (i) may not be relied upon to a sole or decisive extent in reaching a conviction; (ii) were recorded in a manner that enables the Parties and Panel to assess the witness's demeanour and credibility; (iii) were all included in the SPO's presentation queue for W04752's direct examination; (iv) were, for the most significant parts, put to W04752 during his cross-examination by the Defence and thus tested before the Trial Panel and subject to re-examination by the SPO; and (v) are not tendered to prove the acts and conduct of the Accused but to show the witness's consistency, as suggested by the SPO.⁵⁰ Therefore, the impact of the admission of the Five Statements, if any, is limited to the assessment of the credibility of the witness, and they will thus not be relied upon to establish the acts and conduct of the Accused.⁵¹
37. In consequence, the Defence's request to admit W04752's Five Statements pursuant to Rule 153 is well grounded and should be granted.

V. CONCLUSION

38. For the foregoing reasons, the Defence respectfully requests the Trial Panel to:
- **AUTHORISE** the Defence to amend its Witness List to add W04752;

⁴⁹ F03327, para. 18.

⁵⁰ IA041/F00003, para. 6, fn 9.

⁵¹ See, for instance, ICC, *Pros. v. Yekatom & Ngaïssona*, ICC-01/14-01/18-1833-Corr-Red, Trial Chamber, *First Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b)*, 6 April 2023, paras. 88, 156, 179, 268, where the Chamber decided to admit a statement but not to rely on certain portions of it for the purposes of establishing the accused's acts and conduct.

- **ADMIT** W04752's Five Statements pursuant to Rule 153.

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Respectfully submitted,



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Thursday, 13 November 2025

At The Hague, The Netherlands