



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: 20 November 2025

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Prosecution response to F03576

Specialist Prosecutor's Office

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I. INTRODUCTION

1. The Defence Request¹ is both overly broad and incomplete, and again fails to identify any aspect of the Five Statements² not already adequately covered during the examination of the witness. Should the Panel be minded to admit the Five Statements, the admission should be solely for the limited purpose of comparison and not for the truth of their contents.

II. SUBMISSIONS

2. At the outset, the request to add W04752 to the Defence's witness list should be denied. As acknowledged in the Defence Request, W04752 is a Prosecution witness, who has already testified, and the tender is for the limited purpose of assessing the consistency of W04752's evidence. Accordingly, W04572's status is not impacted and his addition to the Defence witness list is neither required for the Panel to consider the Defence Request, nor justified.³

3. In the circumstances of the Defence Request for admission of the Five Statements, and noting, in particular, the full opportunity the Thaçi Defence had to examine W04752 on the contents of the Five Statements, the Specialist Prosecutor's Office ('SPO') agrees with the Court of Appeals that admission of hundreds of additional pages of testimony to the record is neither warranted, nor beneficial.⁴

¹ Thaçi Defence Request Related to W04752, KSC-BC-2020-06/F03576, 13 November 2025 ('Defence Request').

² As defined in the Defence Request.

³ In effect, the Defence is seeking to supplement its cross-examination of the witness, and Rules 138 and 153-155 do not expressly limit the admission of witness evidence to that tendered by the calling Party or during the calling Party's case. *See, similarly, ICTY, Prosecutor v. Hadžić, Decision on Prosecution Motion to Strike DGH-080 from the Defence's Rule 65ter(G) List and Defence Motion to Recall Witness Dušan Jakšić, 8 June 2015, paras 4, 11, 15 (granting, inter alia, a request to strike a Prosecution witness included on the Defence witness list, where the Defence effectively sought to recall that witness for further cross-examination).*

⁴ Decision on Thaçi Appeal Against Decision on Admission of W04752's Prior Statements, KSC-BC-2020-06/IA041/F00005, 10 November 2025 ('Appeals Decision'), paras 66-68.

Indeed, the Defence has again failed to identify *any* aspect of the Five Statements not already adequately addressed during cross-examination.

4. The only rationale provided for tendering the statements in supplement is the assertion at fn.47 of the Defence Request that reading portions of the statements into the record was insufficient because the Panel will not consider evidence that is not on the record. This is patently inapposite in the present context, given that, to the extent the witness affirmed the portions read to him, they are already part of the evidence on record in this case.⁵

5. The tender is also both overly broad and incomplete. For example, if – as the rationale provided in fn.47 of the Defence Request suggests – the Thaçi Defence truly sought simply to support the portions put to the witness on the stand, the SPO would not have objected (despite the duplicative nature of such a tender). However, what is instead tendered are hundreds of pages which were not put to the witness. Moreover, having exceeded the scope of what was put the witness, the tender is then also incomplete⁶ in a manner which is potentially prejudicial.

6. It is unclear how consideration of the selective, and largely untested, Five Statements tendered would be conducive towards a fair and holistic assessment of the witness's credibility. In addition, the Five Statements are clearly unsuitable for admission pursuant to Rule 153, noting, *inter alia*, the scope and nature of the matters addressed therein.

7. The SPO is, however, mindful of the Panel's prior determination regarding the potential relevance of the Five Statements,⁷ the stage of proceedings, and the potential impact and burden on the witness himself of requiring his further appearance. Should

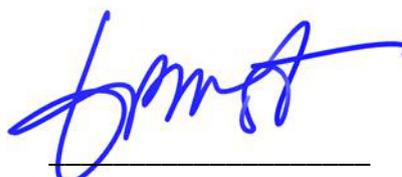
⁵ See, *similarly*, Appeals Decision, KSC-BC-2020-06/IA041/F00005, para.67.

⁶ Not only do the Five Statements only comprise a portion of the witness's prior evidence, but the tender even includes single days plucked out from multi-day testimonies.

⁷ Decision on Thaçi Defence Request for Admission of Prior Statements of W04752, KSC-BC-2020-06/F03327, 11 July 2025, para.18.

the Panel therefore be minded to admit the Five Statements, they should, in light of the problematic nature of the tender as highlighted above, be admitted solely for comparative purposes and not for the truth of their contents.⁸ Within that limited framework, and while the request to add W04752 to the Defence witness list should be denied,⁹ the SPO would not oppose admission of the Five Statements pursuant to Rule 138.

Word count: 754



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Specialist Prosecutor

Thursday, 20 November 2025

At The Hague, the Netherlands.

⁸ Defence Request, KSC-BC-2020-06/F03576, para.7.

⁹ See para.2 above.