

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 Counsel for Hashim Thaçi
Specialist Counsel for Kadri Veseli
Specialist Counsel for Rexhep Selimi
Specialist Counsel for Jakup Krasniqi

Date: 17 December 2025
Language: English
Classification: Public

Joint Defence Reply to Prosecution response to 'Joint Defence Request for Leave to Appeal the Order of 21 November 2025'

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I. INTRODUCTION

1. The Defence hereby replies to the 'Prosecution response to 'Joint Defence Request for Leave to Appeal the Order of 21 November 2025' ("Response").¹

II. SUBMISSIONS

A. THE ISSUES ARE APPEALABLE

(i) *First Issue*

2. The SPO incorrectly claims that the First Issue misrepresents the Impugned Order.² The SPO claims that the Panel "adequately addressed" the Defence's submissions and "'provided reasoning in support of its findings on the substantive considerations relevant for a decision, [and was] not required to articulate every step of its reasoning and to discuss each submission.'"³ To portray the decision as having failed merely to articulate every step of its reasoning is untenable. Nowhere in the Impugned Order does the Panel provide any "reasoning in support of its findings on the substantive considerations."⁴ It is for this reason, that the SPO – tellingly - is unable to cite to such in its Response. The Panel failed to engage in any sense with the merits of the Defence's request.

(ii) *Second Issue*

3. Contrary to the SPO's Response,⁵ the Defence's submissions are not unfounded. The Defence has made clear that case 06 is unique in its complexity and size, justifying a bifurcated sentencing procedure as envisaged by the

¹ F03625, *Prosecution response to 'Joint Defence Request for Leave to Appeal the Order of 21 November 2025'*, 12 December 2025, public ("Response").

² *Ibid.*, paras. 2-4.

³ *Ibid.*, para. 3.

⁴ *Ibid.*; F03058, *Decision on Joint Defence Request for Certification to Appeal the Oral Order on Reasons for Ruling on the Joint Defence Submissions on Consecutive Final Briefs*, 26 March 2025, public, para. 24.

⁵ Response, para. 7.

Rules.⁶ These arguments have not been “considered and rejected by the Panel”;⁷ rather, as demonstrated above, they have gone completely ignored.

4. The Second Issue is not mere disagreement.⁸ The Defence is not submitting that the KSC is bound by the jurisprudence of other international criminal tribunals.⁹ It simply submits that it is wrong for the Panel to impose the same sentencing procedure for the present case as other cases before the KSC without meaningfully considering the principles enumerated in the jurisprudence relating to cases of similar complexity or the Accused’s fair trial rights.

B. THE ISSUES HAVE IMPACT JUSTIFYING CERTIFICATION

5. Finally, there can be no reasonable argument that the Defence failed to identify prejudice caused by the Issues.¹⁰ The core of the Defence’s argument is the prejudice caused by adopting bifurcated sentencing procedures in this case. Similarly, the Defence highlighted how immediate resolution of the Issues would materially advance proceedings, given the impending deadline for filing final trial briefs and impact statements.¹¹ The SPO merely repeats the Panel’s Order without any substantial engagement.¹²

III. CONCLUSION

6. In light of the foregoing, the Defence requests that leave to appeal be granted.

⁶ F03605, *Joint Defence Request for Leave to Appeal the Order of 21 November 2025*, 1 December 2025, public, (“Request”), paras. 16-22; F03584, *Joint Defence Response to Order for submissions on Reparation Proceedings*, 17 November 2025, confidential, paras. 12-17.

⁷ Response, para. 6.

⁸ *Ibid.*, para. 8.

⁹ *Ibid.*, para. 7.

¹⁰ *Ibid.*, para. 9.

¹¹ Request, para. 27.

¹² Response, para. 10, referring to F03597, *Order Pursuant to Rules 134(b), (d) and 159(6) and Related Matters*, 21 November 2025, public, (“Order”), para. 37.

Word Count: 535

Respectfully submitted on Wednesday, 17 December 2025, at the Hague, the
Netherlands



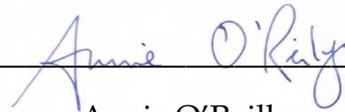
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A handwritten signature in black ink, appearing to read 'Băieșu', is positioned above a solid horizontal line.

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