



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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: Fidelma Donlon

Date: 29 December 2025

Language: English

Classification: Public

**Public Redacted Version of Decision on Veseli Defence Request for Certification
to Appeal the Order Following the Decision on Thaçi Defence Request Pursuant
to Rule 155**

Specialist Prosecutor

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TRIAL PANEL II ("Panel"), pursuant to Article 45 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 77 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 2 December 2025, the Panel issued a decision: (i) finding that [REDACTED]'s ("Witness") SPO interview ("Statement")¹ and one associated exhibit ("Associated Exhibit")² (jointly "Proposed Evidence") were admissible pursuant to Rules 138(1) and 155(1), if the Statement was tendered in its entirety; and (ii) inviting the Defence for Hashim Thaçi ("Mr Thaçi" and "Thaçi Defence") to confirm whether it maintained its request for admission of the Proposed Evidence on the understanding that, if the request was maintained, the Statement would be admitted in its entirety ("Impugned Decision").³
2. On 4 December 2025, the Thaçi Defence filed a notice wherein it confirmed that it was seeking admission of the Statement in its entirety.⁴
3. Also, on 4 December 2025, the Defence for Kadri Veseli ("Mr Veseli" and "Veseli Defence") filed a notice wherein it opposed the admission of the Statement in its entirety on the basis that it did not comply with Rules 155 and 138(1) ("Veseli Notice").⁵

¹ [REDACTED].

² [REDACTED].

³ F03607, Panel, *Decision on Thaçi Defence Request Pursuant to Rule 155*, 2 December 2025, confidential.

⁴ F03614, Specialist Counsel, *Thaçi Defence Submissions pursuant to Decision F03607*, 4 December 2025, confidential, para. 3.

⁵ F03615, Specialist Counsel, *Veseli Defence Submissions Regarding Decision F03607*, 4 December 2025, confidential (a public redacted version was filed on 12 December 2025, F03615/RED).

4. On 5 December 2025, the Panel issued an order following the Impugned Decision formally admitting the Proposed Evidence (“Impugned Order”).⁶

5. On 15 December 2025, the Veseli Defence requested leave to appeal the Impugned Order (“Request”).⁷

6. On 18 December 2025, the Specialist Prosecutor’s Office (“SPO”) responded to the Request (“Response”).⁸

7. On 22 December 2025, the Veseli Defence replied to the Response (“Reply”).⁹

II. SUBMISSIONS

8. The Veseli Defence requests leave to appeal the Impugned Order in respect of the following two issues (collectively, “Issues”):

- 1) Whether the Panel erred in law by admitting [REDACTED]’s Proposed Evidence without assessing the specific prejudicial impact that such admission would have on Mr Veseli (“First Issue”); and
- 2) Whether the Panel, by admitting [REDACTED]’s Proposed Evidence, failed to comply with its obligation under Article 40(2) to ensure the fairness of the proceedings and safeguard the Accused’s rights (“Second Issue”).¹⁰

9. The Veseli Defence submits that the Issues satisfy the test for leave to appeal as they: (i) arise from the Impugned Order and do not merely disagree with it;¹¹ (ii) significantly impact the fair and expeditious conduct of the proceedings and/or

⁶ F03617, Panel, *Order Following the Decision on Thaçi Defence Request Pursuant to Rule 155*, 5 December 2025, confidential.

⁷ F03628, Specialist Counsel, *Veseli Defence Request for Leave to Appeal the Order of 5 December 2025*, 15 December 2025, confidential.

⁸ F03635, Specialist Prosecutor, *Prosecution Response to Veseli Defence Request for Certification to Appeal [REDACTED] Admissibility Order*, 18 December 2025, confidential.

⁹ F03644, Specialist Counsel, *Veseli Defence Reply to ‘Prosecution Response to Veseli Defence Request for Certification to Appeal [REDACTED] Admissibility Order’*, 22 December 2025, confidential.

¹⁰ Request, para. 2.

¹¹ Request, paras 12-21.

the outcome of the trial;¹² and (iii) require the immediate resolution by the Court of Appeals Panel in order to materially advance the proceedings.¹³

10. The SPO responds that the Request should be dismissed as it is untimely and the Issues fail to meet the criteria for certification under Article 45 and Rule 77.¹⁴ Specifically, the SPO contends that: (i) the Request, although framed as a request for leave to appeal the Impugned Order, is, in truth, a request for leave to appeal the Impugned Decision, and is therefore untimely;¹⁵ (ii) the Issues are not appealable;¹⁶ and (iii) the Issues have no impact justifying certification since the impact of the Impugned Decision and Impugned Order cannot be properly assessed until it is known how the Panel relies on the Statement in a judgment.¹⁷

11. The Veseli Defence replies that the Request is not untimely and reiterates its request for certification to appeal the Impugned Order.¹⁸

III. APPLICABLE LAW

12. Pursuant to Article 45(2) and Rule 77(2), a right to appeal only arises if the standard of certification set forth therein has been met. Rule 77(2) provides that:

The Panel shall grant certification if the decision involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, including, where appropriate remedies could not effectively be granted after the close of the case at trial, and for which an immediate resolution by the Court of Appeals Panel may materially advance the proceedings.

13. The Panel incorporates by reference the applicable law on the legal standard

¹² Request, paras 22-24.

¹³ Request, para. 25.

¹⁴ Response, paras 1, 13.

¹⁵ Response, paras 2-3.

¹⁶ Response, paras 4-8.

¹⁷ Response, paras 9-11.

¹⁸ Reply, paras 2-3, 6.

for certification to appeal set out in past decisions.¹⁹

IV. DISCUSSION

14. In the Impugned Decision, the Panel (i) rejected a request by the Thaçi Defence, supported by the Veseli Defence, to partially admit, pursuant to Rule 155, the Proposed Evidence;²⁰ (ii) found that the Proposed Evidence, if the Statement was tendered in its entirety, was admissible pursuant to Rules 138 and 155(1);²¹ (iii) noted that it was mindful that the Thaçi Defence had not requested admission of the Statement in its entirety and that it contains evidence that goes to proof of the acts and conduct of the Accused as charged in the indictment;²² and (iv) ordered the Thaçi Defence to inform the Panel whether it maintained its request for admission of the Proposed Evidence on the understanding that, if the request was maintained, the Statement would be admitted in its entirety.²³

15. In the Impugned Order, the Panel: (i) rejected certain objections raised in the Veseli Notice, noting that they lacked timeliness and, in any event, had been considered and addressed by the Panel in the Impugned Decision;²⁴ and (ii) formally admitted the Proposed Evidence.²⁵

16. The Panel recalls that it issued the Impugned Order following the Impugned Decision, and they therefore need to be considered jointly.

¹⁹ See e.g., F01237, Panel, *Decision on Thaçi Defence Request for Leave to Appeal Decision on Disclosure of Dual Status Witnesses*, 30 January 2023, paras 7-8, referring to KSC-BC-2020-07, F00423, Panel, *Decision on SPO Requests for Leave to Appeal F00413 and Suspensive Effect*, 8 November 2021, paras 13-21; F00484, Panel, *Decision on Defence Request for Leave to Appeal F00470*, 8 December 2021, paras 4-14. See also F00172, Pre-Trial Judge, *Decision on the Thaçi Defence Application for Leave to Appeal*, 11 January 2021, paras 6-7, 9-17.

²⁰ Impugned Decision, paras 29-35.

²¹ Impugned Decision, paras 24-43.

²² Impugned Decision, para. 44.

²³ Impugned Decision, paras 44, 46(c).

²⁴ Impugned Order, para. 7.

²⁵ Impugned Order, para. 9.

A. TIMELINESS OF THE REQUEST

17. The SPO contends that the Request is founded upon issues of prejudice and fairness of proceedings, which were addressed in the Impugned Decision.²⁶ According to the SPO, the Veseli Defence is therefore seeking leave to appeal the Impugned Decision, and not the Impugned Order, and as a result the Request is not timely.²⁷

18. The Veseli Defence replies that the Impugned Decision did not give rise to any prejudice to the Veseli Defence because it merely stated that the Thaçi Defence's request to tender the entirety of the Witness's evidence was rejected, and prejudice arose from the Impugned Order admitting the Statement in full.²⁸ According to the Veseli Defence, the Impugned Order was the properly appealable decision and the Request is not untimely.²⁹

19. The Panel notes that the Impugned Decision verified that the Statement met all admissibility requirements and made it clear that the Statement would be admitted if and when the Thaçi Defence informed the Panel that it maintained its request for admission of the Statement in its entirety.³⁰ The Impugned Order merely formalised the admission of the Statement. The Veseli Defence should, therefore, have raised its objection to the Panel's reasoning in respect of the admissibility of the Statement as provided in the Impugned Decision.

20. However, the Panel considers that, since it issued two decisions regarding the Proposed Evidence, namely the Impugned Decision and the Impugned Order, there might have been uncertainty regarding the point at which the deadline set out in Rule 77(1) was triggered. The Panel considers that, in cases of doubt, preference should be given to an interpretation that does not deprive a Party of its

²⁶ Response, paras 2-3.

²⁷ Response, paras 2-3.

²⁸ Reply, para. 2.

²⁹ Reply, paras 2-3.

³⁰ Impugned Decision, paras 44, 46(c)-(d).

right to access to a court to seek legal relief.³¹ The Panel therefore finds that the Request is timely or that good cause has been shown to grant an extension.

B. FIRST AND SECOND ISSUES

21. The Panel considers that the First and Second Issues are connected, since the Second Issue only arises if the First Issue does. Accordingly, the Panel will address the First and Second Issues together.

22. The Veseli Defence submits that the Issues are appealable and not a mere disagreement with the Impugned Decision and/or the Impugned Order.³² In respect of the First Issue, the Veseli Defence contends that the Panel did not account for the prejudice that arose to Mr Veseli by admitting the Statement, but only considered prejudice in relation to Mr Thaçi, as the tendering party.³³ In respect of the Second Issue, the Veseli Defence contends that, when the Panel received the Veseli Notice, it was required to adopt measures, pursuant to Article 40(2), to ensure the fairness of the proceedings and respect for Mr Veseli's fair trial rights, and that, in failing to do so, the Panel erred in law.³⁴

23. The SPO responds that the First Issue misrepresents the Impugned Decision by focusing on a single paragraph therein concerned with prejudice to the Thaçi Defence and thereby overlooking three further paragraphs directed to prejudice to all Accused.³⁵ The SPO argues that the Second Issue relitigates the same complaint underpinning the First Issue, albeit at a greater level of abstraction, and that the Second Issue misrepresents the Impugned Decision since the Panel

³¹ See e.g. European Court of Human Rights, *Miragall Escolano and Others v. Spain*, nos. 8366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98, and 41509/98, [Judgment](#), 25 January 2000, paras 37-38.

³² Request, paras 12-21.

³³ Request, para. 13.

³⁴ Request, paras 19-20.

³⁵ Response, para. 4.

underlined that the Rules provided proper procedural remedies to any perceived unfairness.³⁶

24. The Veseli Defence replies that: (i) vague allusions to the weight that may or may not be given to evidence does not provide adequate protection against its prejudice;³⁷ and (ii) the text of Article 40(2) requires the Panel to conduct the proceedings with full respect for the rights of accused, and this requirement, which applies individually to each of the Accused, was not given due consideration as regards Mr Veseli, when the Panel decided to admit the Proposed Evidence.³⁸

25. With regard to the First Issue, the Veseli Defence submits that the Panel did not consider the prejudice to Mr Veseli when admitting the Proposed Evidence.³⁹ While the Impugned Decision indeed addressed certain points that were relevant to Mr Thaçi only,⁴⁰ it also, as set out in the Impugned Order,⁴¹ addressed the prejudicial impact of the Statement to the Accused at length.⁴² In particular, the Panel held that: (i) the Statement overlaps with, *inter alia*, the evidence of other witnesses in this case, namely [REDACTED], [REDACTED], [REDACTED], and [REDACTED], whom the Parties and participants had the opportunity to question;⁴³ (ii) the Defence cross-examined these witnesses about the content of the Statement;⁴⁴ and (iii) it has previously heard evidence regarding several of the statements made by the Witness.⁴⁵ This reasoning was not exclusively limited to the rights and interests of Mr Thaçi, but applied to all Accused. Accordingly, the

³⁶ Response, paras 6-7.

³⁷ Reply, para. 4.

³⁸ Reply, para. 5.

³⁹ Request, paras 13, 16-18.

⁴⁰ Impugned Decision, para. 40.

⁴¹ Impugned Order, para. 7.

⁴² Impugned Decision, paras 37-39.

⁴³ Impugned Decision, para. 37.

⁴⁴ Impugned Decision, para. 37.

⁴⁵ Impugned Decision, para. 38.

Veseli Defence's submission that the crux of the Panel's reasoning is set out in paragraph 40⁴⁶ plainly misrepresents the Impugned Decision.

26. Turning to the Veseli Defence's argument that the Witness falsely implicates Mr Veseli in an [REDACTED], and that it was incumbent upon the Panel to consider the prejudice to Mr Veseli as the decision to admit the entirety of the Statement is the most prejudicial outcome to Mr Veseli.⁴⁷ The Panel recalls that it specifically considered this factual allegation in the Impugned Decision when it noted that it had previously heard evidence about "[REDACTED]",⁴⁸ but, nonetheless, concluded that the probative value of the Statement was not outweighed by any prejudicial effect.⁴⁹

27. With regard to the Second Issue, the Veseli Defence contends, in effect, that, when issuing the Impugned Order, the Panel was required to adopt measures, pursuant to Article 40(2), to respect Mr Veseli's fair trial rights as an accused.⁵⁰ The Panel is of the view that this argument is premised upon a finding of prejudice or other fair trial violation to Mr Veseli. Since the Panel has found that the First Issue misrepresents the Impugned Decision and that there was no prejudice to the Accused, including Mr Veseli,⁵¹ there was no reason for the Panel to adopt any further measures, pursuant to Article 40(2), in the Impugned Order.

28. In light of the above, the Panel finds that the Veseli Defence misrepresents and merely disagrees with the Panel's reasoning and conclusion in respect of the First and Second Issues and that the Issues do not constitute discrete topics emanating from the Impugned Decision and/or Impugned Order. The Panel, therefore, finds that the Issues do not satisfy the first requirement of Rule 77(2).

⁴⁶ Request, para. 13.

⁴⁷ Request, para. 14.

⁴⁸ Impugned Decision, para. 38.

⁴⁹ Impugned Decision, para. 41.

⁵⁰ Request, paras 19-21.

⁵¹ See above paras 25-26; Impugned Decision, paras 37-39; Impugned Order, para. 7.

29. Accordingly, the remaining requirements of the certification test arising from Article 45(2) and Rule 77(2) need not be addressed in relation to the Issues. The request for certification to appeal the Issues is, therefore, rejected.

V. CLASSIFICATION

30. The Panel notes that the Request, the Response and the Reply are confidential. The Panel also notes that the SPO requests that the Response be reclassified as public.⁵² The Panel therefore orders the Registry to reclassify the Response as public by no later than **Friday, 16 January 2026**. The Panel also orders the Veseli Defence to request reclassification or file a public redacted version of the Request and the Reply by no later than **Friday, 16 January 2026**.

VI. DISPOSITION

31. For the above-mentioned reasons, the Panel hereby:

- a) **REJECTS** the Request;
- b) **ORDERS** the Registry to reclassify the Response as public by no later than **Friday, 16 January 2026**; and
- c) **ORDERS** the Veseli Defence to request reclassification or file a public redacted version of the Request and the Reply by no later than **Friday, 16 January 2026**.

⁵² Response, para. 12.



Judge Charles L. Smith, III
Presiding Judge

Dated this Monday, 29 December 2025

At The Hague, the Netherlands.