



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2023-12
**Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj,
Isni Kilaj, Fadil Fazliu and Hajredin Kuçi**

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 18 December 2025

Language: English

Classification: Public

**Public redacted version of 'Prosecution motion for admission of evidence of
witnesses Witness 7 and Witness 9 pursuant to Rule 154 with confidential
Annexes 1 and 2'**

Specialist Prosecutor's Office
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon

Specialist Counsel for Bashkim Smakaj
Jonathan Rees

Specialist Counsel for Isni Kilaj
Iain Edwards

Specialist Counsel for Fadil Fazliu
David A. Young

Specialist Counsel for Hajredin Kuçi
Alexander Admiraal

I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law¹ and Rules 137, 138 and 154 of the Rules,² the Specialist Prosecutor's Office ('SPO') hereby requests the admission of the statements (collectively, 'Rule 154 Statements'), together with associated exhibits, of Witness 7 and Witness 9 (collectively, 'Witnesses').

2. The Rule 154 Statements and associated exhibits of the Witnesses (collectively, 'Proposed Evidence')³ meet the requirements of the Rules, are relevant, authentic, reliable, and have probative value not outweighed by any prejudice. Their admission would further ensure judicial economy while preserving procedural safeguards afforded to the Accused. Admission is therefore in the interests of justice.

II. APPLICABLE LAW

3. Rule 154 permits the admittance of evidence of a witness – including evidence that relates to the acts and conduct of the Accused as charged in the Indictment – in the form of a written statement or transcript, provided that the witness is (i) present in court, (ii) available for cross-examination and any questioning by the Single Trial Judge ('STJ'), and (iii) attests that their Rule 154 Statements accurately reflect their declaration and what they would say if examined.⁴

4. Evidence admitted pursuant to Rule 154 must satisfy the standard admissibility criteria provided for in Rule 138,⁵ and thus must be *prima facie* relevant, authentic,

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule' or 'Rules' are to the Rules

³ Attached to this motion are two annexes. Each annex contains a table identifying the Proposed Evidence for each witness: Annex 1 pertains to Witness 7; Annex 2 to Witness 9.

⁴ Rule 154; *see also* *Prosecutor v. Mustafa*, Decision on the submission and the admissibility of evidence, KSC-BC-2020-05/F00169, 25 August 2021 ('Mustafa Decision on the admissibility of evidence'), para.31 (noting that Rule 154 allows for the admission of a written statement that goes to the proof of the acts and conduct of the Accused as charged in the indictment provided that the additional Rule 154 safeguards, including the witness' presence in court for cross examination, are met).

⁵ *See Prosecutor v. Thaçi et al*, Public Redacted Version of 'Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154', KSC-BC-2020-06/F01380, 7 November 2023, ('Case 6 First Rule 154 Decision'), paras 12, 15, 21, 25.

reliable, and have probative value not outweighed by any prejudicial effect.

5. Exhibits used with the respective witnesses in the tendered evidence are appropriate for admission as associated exhibits when they are used or explained by a witness and are an integral part of the statement or testimony.⁶

III. SUBMISSIONS

6. The Proposed Evidence should be admitted as it is (i) relevant to the allegations in the Indictment, (ii) is *prima facie* reliable and has clear and sufficient indicia of authenticity, (iii) has probative value not outweighed by its prejudicial effect, as the Witnesses will be available for cross examination, and (iv) meets the additional requirements of Rule 154. The associated exhibits are an integral part of the Rule 154 Statements and provide necessary context; without them, the Rule 154 Statements may become less complete or be of diminished probative value.

7. Furthermore, Rule 154 – which derives from the statutory scheme of other similarly situated courts⁷ – enables judicial economy by reducing, *inter alia*, time required for direct examination, while ensuring certain procedural safeguards, including the right to confrontation, are preserved.⁸ As the Proposed Evidence meets the admissibility requirements of Rules 137 and 138 and admission would further

⁶ Case 6 First Rule 154 Decision, KSC-BC-2020-06/F01380, para.24 ('...the notion of "associated exhibits" comes within the scope of Rule 154 where the exhibits form an "inseparable and indispensable" part of the statement or record of interview tendered pursuant to that Rule. [...] Particularly relevant in this context is whether the proposed exhibit was discussed with the witness in the record which is being tendered in evidence').

⁷ Compare Rule 154 with International Criminal Tribunal for the Former Yugoslavia ('ICTY') Rules, Rule 92ter, Special Court for Sierra Leone ('SCSL') Rules, Rule 92ter, and International Criminal Court ('ICC') Rules, Rule 68(3).

⁸ See Mustafa Decision on the admissibility of evidence, KSC-BC-2020-05/F00169, para.29 (noting that Rules 153-155 are 'tools to expedite and streamline the proceedings'); ICC, *Prosecutor v. Yekatom and Ngaïssona*, ICC-01/14-01/18-685, Decision on the Prosecution Extension Request and Guidance on Rule 68 of the Rules, 16 October 2020 ('Yekatom and Ngaïssona Decision'), para.26 (noting that 'Rule 68 of the Rules is widely acknowledged as a useful tool to expedite and streamline the proceedings') (internal citations omitted).

ensure judicial economy while ensuring procedural safeguards for the Accused,⁹ admission is therefore in the interests of justice.

A. WITNESS 7

8. *Relevance.* Witness 7 has been a [REDACTED], and has held the position of [REDACTED]. His duties include [REDACTED].

9. Witness 7 has first-hand knowledge regarding [REDACTED] that are directly relevant to this case, including, *inter alia*, when certain individuals relevant to this case [REDACTED], [REDACTED], and when certain [REDACTED].

10. Witness 7 will also provide important testimony necessary to understand [REDACTED] which bear directly on this case, including important context regarding, *inter alia*, (i) [REDACTED], (ii) [REDACTED] as referenced in his Rule 154 Statement, and (iii) [REDACTED]. Witness 7's evidence is thus relevant to the crimes charged in the Indictment.¹⁰

11. *Authenticity and reliability.* Witness 7's Rule 154 Statement is comprised of three interconnected¹¹ declarations and corresponding annexes providing [REDACTED] discussed therein (collectively, 'Witness 7 Declarations').¹² The Witness 7 Declarations all bear sufficient indicia of authenticity and reliability,¹³ as the truth and accuracy of

⁹ Case 6 First Rule 154 Decision, KSC-BC-2020-06/F01380, para.13 ('The fact that Rule 154 allows for the tendering of written evidence of this sort is explained by the fact that the rule provides for three specific safeguards intended to preserve and protect the fundamental rights of the Accused and the integrity of the proceedings').

¹⁰ See *e.g.* Public Redacted Amended Confirmed Indictment, KCS-BC-2023-12/F00264/A02, 16 April 2025, paras. 6-34; Public redacted version of 'Corrected Version of "Prosecution submission of pre-trial brief"', KSC-BC-2023-12/F00489/A01, 7 October 2025, paras. 22-23, 31-32, 38-40, 46, 48-50, 52-53, 58, 70, 80-82, 92, 104, 111, 116, 118-119, 124, 140-141, 143, 145, 147-153, 160, 165, 172, 185, 202, 220, 236, 238, 240-241.

¹¹ See 119396-119410, paras 1, 5; *see also* 125819-125844, para.1.

¹² The three declarations are as follows: Declaration of Witness 7, dated [REDACTED] (English: 118243-118260, Albanian: 118243-118260-AT); (ii) Supplemental Declaration of Witness 7, dated [REDACTED] (English: 119396-119410, Albanian: 119396-119410-AT), and (iii) Second Supplemental Declaration of Witness 7, dated [REDACTED] (English: 125819-125844, Albanian: 125819-125844-AT).

¹³ Case 6 First Rule 154 Decision, KSC-BC-2020-06/F01380, paras 110, 111 (noting that indicia of authenticity can appear in many ways, including, *inter alia*, the indications as to the date, time and place

the contents are attested to by Witness 7, including by way of Witness 7's signature, and the location and date are included in each declaration.¹⁴

12. The authenticity and reliability of the Witness 7 Declarations are further underscored by their contents, which provide clear factual explanations of [REDACTED] relevant to this case. Specifically, the Witness 7 Declarations address, *inter alia*: (i) [REDACTED]¹⁵ as annexed to each declaration and the [REDACTED];¹⁶ (ii) [REDACTED];¹⁷ and (iii) [REDACTED] relevant to this case.¹⁸

13. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 1 – which is a compilation of the materials referenced and reviewed in Witness 7's Rule 154 Statement¹⁹ – should be admitted as an inseparable and indispensable part of the Rule 154 Statement. The Rule 154 Statement would be less comprehensible or have lesser probative value without the associated exhibits.

14. *Suitable for Rule 154 admission.* Witness 7's Proposed Evidence satisfies the requirements of the Rule 154, and, considering that the witness will be available for cross-examination, its probative value is not outweighed by any prejudice as it provides necessary context regarding [REDACTED] matters relevant to this case.

of the interview or hearing, the signature of the witness, as well as 'the confirmation by the witness of the accuracy and truthfulness of the record').

¹⁴ See 118243-118260, p.118245; 119396-119410, p.119397; 125819-125844, p.125821.

¹⁵ 118243-118260, para.8-9; 119396-119410, para. 6; 125819-125844, para.6.

¹⁶ 118243-118260, pp.118246-118260; 119396-119410, pp. 119398-119410; 125819-125844, pp. 125822-125844.

¹⁷ 118243-118260, para.11; 119396-119410, para.7; 125819-125844, para.7.

¹⁸ 118243-118260, para.9.

¹⁹ The associated exhibits include the [REDACTED] Witness statement of Witness 4 ([REDACTED]), dated [REDACTED] ([REDACTED]); the [REDACTED] Witness statement of Witness 4 ([REDACTED]) in proceedings against [REDACTED], dated [REDACTED], [REDACTED] as disclosed in KSC-BC-2020-06 on 29 September 2023 (English: [REDACTED], Albanian: [REDACTED]); and a transcript of the [REDACTED] Interview with Witness 4 ([REDACTED]), dated [REDACTED] (English: [REDACTED], Albanian: [REDACTED]).

15. Should the present motion be granted, the SPO intends to elicit brief oral testimony from Witness 7 for approximately 2 hours on essential matters that highlight, clarify, or explain certain aspects of his evidence.²⁰

B. WITNESS 9

16. *Relevance.* Witness 9 is a Forensic Analyst contracted by the SPO to assist with the forensic examination of seized electronic devices in this case. Witness 9 is the Director of the Digital Evidence Laboratory in the Massachusetts Attorney General's Office in the United States, and has held this position since 2012.

17. Witness 9's Rule 154 Statement pertains to the following matters directly relevant to this case: (i) the authentication of the SPO's exhibits extracted from electronic devices seized in this case, including mobile phones and computers;²¹ (ii) the process by which he verified that the data contained in the SPO's exhibits accurately reflects the data contained in each respective device; (iii) the process and methodology he used to geolocate the location data as mapped in several SPO exhibits; and (iv) the process and methodology he used to generate or verify several SPO exhibits from publicly-available webpages. Because Witness 9's Rule 154 Statement and associated exhibits provide important context regarding the forensic extraction methodologies used in connection with key evidentiary material, Witness 9's evidence is relevant to the crimes charged in the Indictment.²²

18. *Authenticity and reliability.* Witness 9's Rule 154 Statement is comprised of four official notes all dated 19 September 2025 (hereinafter 'Witness 9 Official Notes')

²⁰ The SPO notes that Witness 7's anticipated Rule 154 testimony may require adjustment dependent on pending requests for relief. See Prosecution motion for judicial notice, KSC-BC-2023-12/F00629, 17 December 2025.

²¹ The SPO has tendered several of these exhibits through its pending bar table motion. Prosecution motion for admission of material through the bar table with confidential Annex 1, KSC-BC-2020-12/F00632, Confidential 17 December 2025, ('SPO Bar Table Motion'), paras 20-23.

²² Public Redacted Amended Confirmed Indictment, KCS-BC-2023-12/F00264/A02, 16 April 2025, paras. 6-34; Public redacted version of 'Corrected Version of "Prosecution submission of pre-trial brief"', KSC-BC-2023-12/F00489/A01, 7 October 2025, paras. 22-23, 31-32, 38-40, 46, 48-50, 52-53, 58, 70, 80-82, 92, 104, 111, 116, 118-119, 124, 140-141, 143, 145, 147-153, 160, 165, 172, 185, 202, 220, 236, 238, 240-241.

pertaining to (i) the extraction of evidence relevant to this case from electronic devices,²³ (ii) the methodology used to capture and verify public website records,²⁴ (iii) relevant message gap analysis,²⁵ and (iv) the Isni KILAJ MacBook exhibits.²⁶

19. The Witness 9 Official Notes all bear sufficient indicia of authenticity and reliability, as the contents are attested to by Witness 9, including by way of Witness 9's electronic signature, and the Witness 9 Official Notes all include the location and date of each relevant declaration.²⁷

20. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 2 – which is a compilation of the materials referenced and reviewed in Witness 9's Rule 154 Statement – should be admitted as an inseparable and indispensable part of the Rule 154 Statement, and all pertain to Witness 9's task as directed and requested by the SPO.²⁸ The Rule 154 Statement would be less comprehensible or have lesser probative value without the associated exhibits. Several of these items are also subject alternatively to admission through the SPO's Bar Table Motion,²⁹ as each associated exhibit independently meets the admissibility criteria under Rule 138.

21. *Suitable for Rule 154 admission.* Witness 9's Proposed Evidence satisfies the requirements of the Rule 154 and, considering that the witness will be available for cross-examination, its probative value is not outweighed by any prejudice, as it provides essential context and insight into the forensic examinations conducted by Witness 9 in this case.

²³ 129373-129380.

²⁴ 129381-129383.

²⁵ 129384-129387.

²⁶ 129388-129393.

²⁷ See 129373-129380, p.129380; 129381-129383, p.129383; 129384-129387, p.129387; 129388-129393, p.129393. See also Case 6 First Rule 154 Decision, KSC-BC-2020-06/F01380, paras 110, 111.

²⁸ 129373-129380, para.2, 129381-129383, para.2, 129384-129387, paras. 4, 8, 129388-129393, para.2.

²⁹ See SPO Bar Table Motion, KSC-BC-2023-12/F00632, paras 20-23.

22. Should the present motion be granted, the SPO intends to elicit brief oral testimony from Witness 9 for approximately 2 hours on essential matters that highlight, clarify, or explain certain aspects of his evidence.

IV. CLASSIFICATION

23. This filing is classified as confidential pursuant to Rule 82(4). A public redacted version will be filed.

V. RELIEF REQUESTED

24. For the foregoing reasons, the Single Judge should admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the relevant witnesses during their appearances in court.

Word count: 2,393



Kimberly P. West
Specialist Prosecutor

Thursday, 18 December 2025

At The Hague, the Netherlands.