



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Fidelma Donlon

Date: 10 April 2026

Language: English

Classification: Public

**Decision on the Kilaj Defence Motion for Admission of Statements of
Four Character Witnesses Pursuant to Rule 153**

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THE SINGLE TRIAL JUDGE, pursuant to Article 40(6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 137(2), 138(1) and 153 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby issues this decision.

I. PROCEDURAL BACKGROUND

1. On 27 March 2026, the Defence for Isni Kilaj ("Kilaj Defence") requested the "admission of the statements of four character witnesses in lieu of oral testimony" ("Statements")² pursuant to Rule 153.³
2. On 30 March 2026, the Single Trial Judge varied the time limit for any response to the Motion.⁴
3. On 2 April 2026, the Specialist Prosecutor's Office ("SPO") responded to the Motion.⁵

II. SUBMISSIONS

4. The Kilaj Defence tenders the Statements as "evidence that relates to the character of Mr Kilaj, and to mitigation in the event Mr Kilaj were to be convicted", which are said to constitute factors favouring admission pursuant to Rule 153.⁶ It submits that "[t]he Statements are relevant, authentic, and have

¹ All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules.

² Statement of Ekrem Kastrati: DKI00001-00010 and DKI00001-00010-AT ("Kastrati Statement"); Statement of Ali Paçarizi: DKI00011-00019 and DKI00011-00019-AT ("Paçarizi Statement"); Statement of Filloreta Bytyqi, DKI00020-00027 and DKI00020-00027-AT ("Bytyqi Statement"); Statement of Bajrush Hoti: DKI00028-00035 and DKI00028-00035-AT ("Hoti Statement").

³ KSC-BC-2023-12, F00820, Single Trial Judge, *Kilaj Defence Motion for Admission of Statements of Four Character Witnesses Pursuant to Rule 153* ("Motion"), 27 March 2026, public, para. 1, with Annex 1, public.

⁴ KSC-BC-2023-12, CRSPD274, *Email from Single Trial Judge to Parties re Variation of Time Limit – F00820*, 30 March 2026, confidential.

⁵ KSC-BC-2023-12, F00844, SPO, *Prosecution Response to 'Kilaj Defence Motion for Admission of Statements of Four Character Witnesses Pursuant to Rule 153'* ("SPO Response"), 2 April 2026, public.

⁶ Motion, para. 2.

probative value that is not outweighed by their prejudicial effect”; that “[n]one of the Statements contain material which goes to proof of the acts and conduct of the Accused”; and that “[i]t would not be appropriate to require any of the four witnesses to appear for cross-examination [...] nor is there any overriding public interest in the character evidence being presented orally.”⁷

5. The SPO does not oppose the Motion.⁸

III. APPLICABLE LAW

6. Pursuant to Rule 153(1), “the Panel may admit in lieu of oral testimony the written statement of a witness [...] which goes to proof of a matter other than the acts and conduct of the Accused as charged in the indictment.” Factors militating in favour of admission of such statements, as set out in Rule 153(1)(a), include that the evidence “relates to the character of the Accused” or that it “relates to factors to be taken into account in determining sentence”. Pursuant to Rule 153(2), the written statement “shall be signed by the person who records and conducts the questioning and by the person who is questioned [...] The record shall note the date, time and place of, and all persons present during the questioning.” As established in prior jurisprudence, “[b]eyond these requirements, the Panel has discretion as to whether to admit the written statement or transcript *in lieu* of oral testimony.”⁹

7. Pursuant to Rule 153(3), “[a]fter hearing the Parties, the Panel shall decide whether to request the witness to appear for cross-examination. It may decide, providing reasons, that the requirements of a fair and expeditious trial

⁷ Motion, para. 3.

⁸ SPO Response, para. 1.

⁹ KSC-BC-2020-04, F00556RED, Trial Panel I, [Public Redacted Version of Decision on the Specialist Prosecutor’s Requests to Admit the Evidence of TW4-02 and TW4-04 under Rule 153 of the Rules](#), 23 June 2023, public, para. 22. See also KSC-BC-2020-06, F01904RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153](#), 3 November 2023, public, paras 12-13.

exceptionally warrant the admission of the statement or transcript, in whole or in part, without cross-examination.”

8. Written statements of character witnesses relevant for sentencing have been previously admitted before the Specialist Chambers and other tribunals.¹⁰

IV. DISCUSSION

9. The Statements meet the formal conditions for admission pursuant to Rule 153(2). The Albanian version of each of the Statements has, as required by Rule 153(2), been “signed by the person who records and conducts the questioning and by the person who is questioned”. Each of the Statements also notes “the date, time and place of, and all persons present during the questioning.”

10. The Statements also do not concern the acts and conduct of Mr Kilaj as charged in this case, as prescribed by Rule 153(1).¹¹ The Statements address: (i) the declarants’ personal background;¹² (ii) their relationship with, and basis for knowledge of, Mr Kilaj;¹³ and (iii) their assessment of Mr Kilaj’s character based, in

¹⁰ See, e.g., KSC-BC-2020-07, F00578, Trial Panel II, [Decision on Sentencing Evidence](#) (“Case 07 Decision”), 16 March 2022, public; International Criminal Court (“ICC”), *Prosecutor v. Jean-Pierre Bemba et al.*, ICC-01/05-01/13-2025, Trial Chamber VII, [Decision on Sentencing Witnesses and Setting an Article 76\(2\) Hearing](#), 11 November 2016, public, paras 9-10; ICC, *Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06-2385-Red, Trial Chamber VI, [Public Redacted Version of ‘Preliminary Ruling on Prior Recorded Testimony Pursuant to Rule 68\(2\)\(b\) in Relation to Sentencing’](#), 23 August 2019, public, paras 36, 40 and 44-45.

¹¹ KSC-BC-2020-05, F00286, Trial Panel I, [Public Redacted Version of Decision on the Prosecution Application Pursuant to Rule 153 of the Rules](#), 17 December 2021, public, para. 19 (“[T]he expression ‘acts and conduct of the Accused’ [...] refer to the personal actions and omissions of the Accused, referring exclusively to those actions and omissions of the Accused which are described in the charges brought against him, or which are otherwise relied upon to establish his criminal responsibility for the crimes charged. Such expression does not encompass the actions and omissions of others which are attributable to the Accused under the modes of liability charged by the SPO.”)

¹² Kastrati Statement, paras 5-7; Paçarizi Statement, paras 6-11; Bytyqi Statement, paras 6-9; Hoti Statement, paras 4-6.

¹³ Kastrati Statement, paras 10-11, 14, 17-21; Paçarizi Statement, paras 12-18; Bytyqi Statement, paras 10-11, 22; Hoti Statement, paras 7-10.

particular, on his career as a politician, including him serving as Mayor of Malishevë/Mališevo between 2007 and 2013.¹⁴

11. The factors set out in Rule 153(1)(a) militate in favour of admission of the Statements. The Statements concern Mr Kilaj's character and are tendered in potential mitigation of sentence, two factors in favour of admission pursuant to Rule 153(1)(a)(vi) and (vii), respectively. Conversely, none of the factors militating against admission pursuant to Rule 153(1)(b) are applicable. In addition, the SPO does not oppose the admission of the Statements under Rule 153.¹⁵ Accordingly, the Single Trial Judge is satisfied that the Statements are admissible, and should be admitted, pursuant to Rule 153.

12. Noting the absence of any request for cross-examination by the SPO, and in light the factors mentioned above, the Single Trial Judge likewise considers that the Statements may be admitted without cross-examination pursuant to Rule 153(3).¹⁶ The fairness of the proceedings is not negatively impacted by the absence of cross-examination, and its expeditiousness is enhanced.

13. The Statements are also, for the reasons already expressed, admissible pursuant to the general admissibility requirements of Rule 138(1).

V. DISPOSITION

14. For the above reasons, the Single Trial Judge hereby:

- a. **GRANTS** the Motion;

¹⁴ Kastrati Statement, paras 13, 15-16, 22-26; Paçarizi Statement, paras 19-28; Bytyqi Statement, paras 13-21; Hoti Statement, paras 11-21.

¹⁵ SPO Response, para. 1 ("The Specialist Prosecutor's Office ('SPO') does not oppose the Motion of Isni KILAJ seeking the admission of evidence relevant to his character and mitigation in the event of a conviction.").

¹⁶ SPO Response, para. 1. *See also* KSC-BC-2020-06, F01904RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153](#), 3 November 2023, public, para. 47 ("the Panel observes that the Defence does not object to the admission of W04871's Proposed Evidence pursuant to Rule 153. The Panel is therefore satisfied that W04871's Proposed Evidence is: [...] suitable for admission pursuant to Rule 153.").

- b. **ADMITS** into evidence the Statements pursuant to Rule 153;¹⁷ and
- c. **ORDERS** the Registrar to assign exhibit numbers to the items referred to in footnote 2 above.



Judge Christopher Gosnell
Single Trial Judge

Dated this Friday, 10 April 2026
At The Hague, the Netherlands.

¹⁷ See *supra*, footnote 2.