

**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:** Counsel for Kadri Veseli

**Date:** 9 June 2023

**Language:** English

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**Public Redacted Version of Veseli Defence Reply to Prosecution Response to Veseli Defence Request for the Admission of Evidence Associated With W04748's Testimony**

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## I. INTRODUCTION

1. The Defence for Mr Kadri Veseli (“Defence”) hereby files this Reply to the Prosecution’s Response to F01564.<sup>1</sup>

## II. SUBMISSIONS

2. The Response is wholly misguided.
3. Firstly, the Prosecution claims that the Request is simply a plea for reconsideration,<sup>2</sup> yet, in the same breath, it concedes that the Request attempts to admit the Annexed items under “legal bases not previously advanced.”<sup>3</sup> Insofar as the latter claim is concerned, the Defence completely agrees with the Prosecution’s assessment of the Request for it does, in fact, constitute an entirely new application predicated upon legal bases not previously advanced.
4. A motion for reconsideration fundamentally cannot advance previously uninvoked legal bases precisely because it necessitates arguing why a Panel erred in its interpretation of the law as originally invoked.<sup>4</sup> The Defence recalls that when it tendered the Annexed items for admission during W04748’s testimony, it did not invoke any of the legal bases advanced in the Request.<sup>5</sup> No mention, reference, inference or otherwise was made to either Article 37 of the Law, or Rule 138 of the Rules.
5. Secondly, and in connection with the above, the Defence recalls that when admission of the Annexed items was rejected, the Panel did not foreclose the

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<sup>1</sup> F01578, Prosecution response to Veseli Defence request to reconsider inadmissibility ruling, 6 June 2023, confidential.

<sup>2</sup> F01578, paras 1 and 6.

<sup>3</sup> F01578, para. 4.

<sup>4</sup> See for reference, Rule 79 of the Rules, where it states that “[i]n exceptional circumstances and where a clear error of reasoning has been demonstrated or where reconsideration is necessary to avoid injustice, a Panel may, upon request by a Party or, where applicable, Victims’ Counsel, or *proprio motu* after hearing the Parties, reconsider its own decisions. Judgments are not subject to reconsideration.”

<sup>5</sup> Transcript, 16 May 2023, pp. 4062-4064.

items' admission with prejudice.<sup>6</sup> It follows, therefore, that the issue of their admission remained alive and invited fresh submissions to that extent.

6. Thirdly, the Prosecution's explanation for why the admission of W01236's [REDACTED] statement is "inapposite" in the present context is equally confounding.<sup>7</sup> The fact that it "did not oppose the admission of that particular statement, and made it expressly clear that its non-opposition did not extend to Rule 154" fails to negate the fact that a witness statement is capable of admission exclusively through Rule 138 of the Rules. In this regard, the Response is nothing more than an outcry against an unfavourable ruling which, henceforth, may be applicable to similar requests for the admission of such statements.
7. Lastly, noticeably absent from the Response were any specific arguments challenging the Annexed items' admission pursuant to Article 37 of the Law. The Defence reaffirms its position in this respect and reiterates the Annexed items are capable of admission under that provision by virtue of the fact that they fall squarely within its material scope.

### III. CONCLUSION

8. The Defence asks that the Trial Panel dismiss the Response and grant the Request.

**Word Count: 498**



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<sup>6</sup> Transcript, 17 May 2023, pp. 4251-4252.

<sup>7</sup> F01578, fn. 7.

Counsel for Kadri Veseli

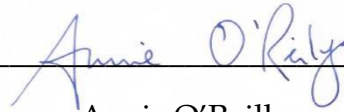
Friday, 9 June 2023,  
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