



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA 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:** 1 December 2023

**Language:** English

**Classification:** **Public**

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**Decision on Thaçi Defence's Request to Reply to F01962**

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**Specialist Prosecutor**  
Kimberly P. West

**Counsel for Victims**  
Simon Laws

**Counsel for Hashim Thaçi**  
Gregory Kehoe

**Counsel for Kadri Veseli**  
Ben Emmerson

**Counsel for Rexhep Selimi**  
Geoffrey Roberts

**Counsel for Jakup Krasniqi**  
Venkateswari Alagenda

**TRIAL PANEL II** (“Panel”), pursuant to Article 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 76 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 7 November 2023, upon the request of the Specialist Prosecutor’s Office (“SPO”),<sup>1</sup> the Panel admitted into evidence two prior statements of W03825 pursuant to Rule 143(2).<sup>2</sup> The Defence for Hashim Thaçi (“Thaçi Defence”) did not object to their admission but noted its continuous objection to the use, as substantive evidence, of portions of a witness’s prior statement admitted under Rule 143(2) that have not been put to the witness in direct examination.<sup>3</sup>

2. On 9 November 2023, the Panel invited the Thaçi Defence to confirm its objections in relation to statements admitted under Rule 143(2) in writing.<sup>4</sup> The Panel also stated that it did not need a reply.<sup>5</sup>

3. On 20 November 2023, the Thaçi Defence filed submissions concerning the use of prior inconsistent statements admitted pursuant to Rule 143(2)(c) (“Thaçi Submissions”).<sup>6</sup>

4. On 27 November 2023, the SPO responded to the Thaçi Submissions (“Response”).<sup>7</sup>

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<sup>1</sup> Transcript of Hearing, 7 November 2023, p. 9509, line 24 to p. 9510, line 16.

<sup>2</sup> Transcript of Hearing, 7 November 2023, p. 9511, line 21 to p. 9512, line 1.

<sup>3</sup> Transcript of Hearing, 7 November 2023, p. 9510, line 19 to p. 9511, line 5.

<sup>4</sup> Transcript of Hearing, 9 November 2023, p. 9705, line 24 to p. 9706, line 1.

<sup>5</sup> Transcript of Hearing, 9 November 2023, p. 9706, line 6.

<sup>6</sup> F01940, Specialist Counsel, *Thaçi Defence Submissions Concerning Use of Prior Inconsistent Statements Pursuant to Rule 143(2)(c)*, 20 November 2023.

<sup>7</sup> F01962, Specialist Prosecutor, *Prosecution Response to Thaçi Defence’s Submissions on Rule 143(2)(c)*, 27 November 2023.

5. On 28 November 2023, the Thaçi Defence filed a request for leave to reply to the Response (“Request”).<sup>8</sup> The Thaçi Defence submits that a reply is warranted due to the significance and novelty of the issue and the potential impact on subsequent testimonies and the fairness of the trial.<sup>9</sup> The Thaçi Defence states that it will limit its reply to 500 words and paragraph 7 of the Response to draw legal authorities to the Panel’s attention.<sup>10</sup>

6. On 30 November 2023, the SPO informed the Panel that it will not respond to the Request.<sup>11</sup>

## II. DISCUSSION

7. The Panel finds that the Thaçi Defence has provided adequate reasons to justify a reply to the Response given the importance of the issue and potential impact upon the Parties of the use of Rule 143(2)(c) statements.

8. In light of the above, the Panel grants the Request and orders the Thaçi Defence to file a reply that is limited in substance to addressing paragraph 7 of the Response and which does not exceed 500 words, in accordance with the timeline set out in Rule 76.

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<sup>8</sup> F01967, Specialist Counsel, *Thaçi Defence Request for Leave to Reply to ‘Prosecution Response to Thaçi Defence’s Submissions on Rule 143(2)(c), 28 November 2023.*

<sup>9</sup> Request, para. 2.

<sup>10</sup> Request, para. 3.

<sup>11</sup> CRSPD379, *Email from SPO to CMU, 30 November 2023.*

III. DISPOSITION

9. For these reasons, the Panel hereby:

- a. **GRANTS** the Request; and
- b. **ORDERS** the Thaçi Defence to file a reply to paragraph 7 of the Response, which does not exceed 500 words, in accordance with the timeline set out in Rule 76.



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**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Friday, 1 December 2023

At The Hague, the Netherlands.