



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:** 25 July 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of the Decision on Thaçi, Veseli and Krasniqi Defence  
Request for Disclosure**

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**TRIAL PANEL II** ("Panel"), pursuant to Articles 21(4)(c) and (6) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 102(3), 106 and 116 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 27 March 2025, a staff member of the Specialist Prosecutor's Office ("SPO"), [REDACTED], made his first appearance on behalf of the SPO in these proceedings.<sup>1</sup>
2. On the same day, in the course of the proceedings, Mr Hashim Thaçi ("Mr Thaçi") brought to the attention of all present that, prior to his employment with the SPO, [REDACTED] had worked at the Detention Management Unit ("DMU"), where the four Accused are detained. In particular, Mr Thaçi stated that [REDACTED] had personally [REDACTED] in his capacity as a member of staff of the DMU, and raised concerns over [REDACTED] having had access in that capacity to privileged information.<sup>2</sup>
3. On 28 March 2025, the Defence teams for Mr Thaçi, Kadri Veseli ("Mr Veseli") and Jakup Krasniqi (collectively, "Defence" and "Accused") requested *via* email that the SPO and the Registrar disclose details regarding [REDACTED] employment at the DMU ("Initial Disclosure Request").<sup>3</sup>

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<sup>1</sup> Transcript of Hearing, 27 March 2025, p. 26034.

<sup>2</sup> See Transcript of Hearing, 27 March 2025, pp. 26077-26081, confidential.

<sup>3</sup> F03218, Specialist Counsel, *Thaci, Veseli and Krasniqi Defence Request for Disclosure* ("Request"), 30 May 2025, confidential, with Annexes 1-2, confidential, Annex 1, pp. 4-6, Annex 2, pp. 3-4 ("Initial Disclosure Request").

4. On 7 May 2025, the Registry filed submissions in relation to the Defence's Initial Disclosure Request ("Registry Submissions").<sup>4</sup> In particular, where available, the Registry provided details and information on: (i) [REDACTED] prior employment at the DMU;<sup>5</sup> (ii) [REDACTED] role in pending cases;<sup>6</sup> (iii) steps taken to ensure no conflicts or prejudice;<sup>7</sup> and (iv) [REDACTED] LinkedIn profile.<sup>8</sup>

5. On 8 May 2025, the SPO responded to the Defence's Initial Disclosure Request *via* email.<sup>9</sup>

6. On 16 May 2025, the Defence requested additional information regarding [REDACTED] prior employment at the DMU through emails sent to the SPO and Registry.<sup>10</sup>

7. On 20 May 2025, the Registry responded to the Defence's email directing the Defence to file its request directly with the Panel, as it relates to a confidential filing before the Panel.<sup>11</sup>

8. On 29 May 2025, the SPO responded to the Defence's email indicating that answers to the Defence's questions were provided in the Registry Submissions and by the SPO *via* email, and that a basis for the Defence's further queries had not been articulated.<sup>12</sup>

9. On 30 May 2025, the Defence filed a motion seeking further disclosure of information concerning [REDACTED] current employment in the SPO and prior employment at the DMU ("Request").<sup>13</sup>

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<sup>4</sup> F03169, Registry, *Registry Submissions in Relation to Defence Disclosure Request*, 7 May 2025, confidential, with Annexes 1-2, 5, confidential and *ex parte*, and Annexes 3-4, confidential.

<sup>5</sup> Registry Submissions, paras 5-22.

<sup>6</sup> Registry Submissions, para. 23.

<sup>7</sup> Registry Submissions, paras 24-34.

<sup>8</sup> Registry Submissions, para. 35.

<sup>9</sup> Request, Annex 1, pp. 3-4.

<sup>10</sup> Request, Annex 1, pp. 1-3, Annex 2, pp. 1-2.

<sup>11</sup> Request, Annex 2, p. 1.

<sup>12</sup> Request, Annex 1, p. 1.

<sup>13</sup> Request. *See* footnote 3.

10. On 12 June 2025, the SPO responded to the Request ("Response").<sup>14</sup>
11. On 17 June 2025, the Defence replied ("Reply").<sup>15</sup>
12. On 7 July 2025, following a written request by Mr Veseli, the Registry filed supplementary submissions in relation to such request.<sup>16</sup>

## II. SUBMISSIONS

13. The Defence requests disclosure of information concerning [REDACTED] current employment in the SPO and prior employment in the Registry.<sup>17</sup> The Defence further submits that there is reason to believe that a conflict of interest exists regarding [REDACTED] prior employment at the Registry's DMU and his current employment in the SPO.<sup>18</sup>

14. The SPO responds that both the Registry and SPO have provided the Defence with relevant information to address its concerns.<sup>19</sup> The SPO further responds that the Request fails to articulate a basis for the further queries raised, and that the Defence simply ignores the clear representations that have already been made.<sup>20</sup>

15. The Defence replies that it is disingenuous for the SPO to suggest that the Defence has ignored the clear representations that have already been made, particularly given the Defence annexed to its Request the totality of its correspondence with the SPO and the Registry.<sup>21</sup> The Defence further replies that in order for a conflict, or potential conflict, of interest to exist, [REDACTED] need

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<sup>14</sup> F03255, Specialist Prosecutor, *Prosecution Response to Defence Request F03218*, 12 June 2025, confidential.

<sup>15</sup> F03272, Specialist Counsel, *Thaçi, Veseli and Krasniqi Reply to Prosecution Response to Defence Request F03218*, 17 June 2025, confidential.

<sup>16</sup> F03313, Registry, *Registry Supplemental Submission in Relation to Defence Disclosure Request*, 7 July 2025, confidential, with Annex 1, confidential and *ex parte*.

<sup>17</sup> Request, paras 1, 17-18, 21. *See also* Initial Disclosure Request.

<sup>18</sup> Request, para. 2.

<sup>19</sup> Response, para. 1, *referring to* Registry Submissions; Request, Annex 1, pp. 3-4.

<sup>20</sup> Response, para. 1.

<sup>21</sup> Reply, para. 2.

not overtly share any information he has about the Accused with others at the SPO, nor need the SPO request that from him, [REDACTED] need only be in possession of such information and it be possible for him to be influenced by it, or have the ability to deploy it in his work at the SPO, to the detriment of the Accused.<sup>22</sup> Finally, the Defence replies that the Request is not a fishing expedition as it is narrow, specific and targeted, and addresses only items that would be necessary to assess the nature of the potential conflict and any steps taken by the SPO to mitigate it.<sup>23</sup>

### III. APPLICABLE LAW

16. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in possession of the SPO which are for or against the accused shall be made available to the accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter-balance protections are applied. Such material must enable the Defence to prepare its case, in accordance with Article 21(4)(c).

17. Pursuant to Article 40(2) of the Law, the Trial Panel shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules, with full respect for the rights of the accused.

18. Pursuant to Rule 102(3) of the Rules, the Specialist Prosecutor shall, pursuant to Article 21(6) of the Law, provide detailed notice to the Defence of any material and evidence in his or her possession. The Specialist Prosecutor shall disclose to the Defence, upon request, any statements, documents, photographs and allow inspection of other tangible objects in the custody or control of the Specialist Prosecutor, which are deemed by the Defence to be material to its preparation, or

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<sup>22</sup> Reply, para. 5.

<sup>23</sup> Reply, para. 7.

were obtained from or belonged to the Accused. Such material and evidence shall be disclosed without delay. The Specialist Prosecutor shall immediately seize the Panel where grounds to dispute the materiality of the information exist.

19. Pursuant to Rule 106 of the Rules, subject to Rule 103, and unless otherwise ordered by a Panel, reports, memoranda or other internal documents prepared by a Party or Victims' Counsel, their assistants or representatives in connection with the investigation or preparation of a case are not subject to disclosure or notification under these Rules. For purposes of the Specialist Prosecutor, this includes reports, memoranda or other internal documents prepared by the Special Investigative Task Force or its assistants or representatives in connection with its investigative work.

#### IV. DISCUSSION

20. The Defence submits that: (i) while working at the DMU, [REDACTED] had regular contacts with the four Accused, through which he had the opportunity to learn of their day-to-day concerns and preoccupations;<sup>24</sup> (ii) he was involved in [REDACTED];<sup>25</sup> (iii) the information disclosed by the SPO and Registry in response to Defence requests fails to respond to the Defence's request in a number of important respects, including the nature of his work and his involvement with [REDACTED], and how conflict checks were performed in this case;<sup>26</sup> (iv) the SPO has stated that, despite the fact that it did engage in a conflict check, no potential conflict arose, and this conclusion is patently unreasonable given what is known of [REDACTED] role at the DMU;<sup>27</sup> (v) the lack of disclosure is important to the Defence's understanding of whether and to what extent [REDACTED] prior

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<sup>24</sup> Request, para. 13.

<sup>25</sup> Request, para. 13.

<sup>26</sup> Request, para. 14.

<sup>27</sup> Request, para. 14.

employment at the DMU allowed him access to confidential and privileged information possessed by and concerning the Accused;<sup>28</sup> (vi) this information is required in order to determine whether and to what extent there exists a real or apparent conflict of interest on account of his past and current employment;<sup>29</sup> (vii) the Defence considers these issues to be material and important to its preparation pursuant to Rule 102(3);<sup>30</sup> and (viii) without full disclosure, the Panel runs the risk of prejudicing the fair trial rights of the Accused, specifically, the Accused's right to legal professional privilege and the right to adequate facilities to prepare a defence.<sup>31</sup>

21. The SPO responds that: (i) contrary to Defence submissions, the Registrar extensively described the nature of [REDACTED] duties at the DMU, paying particular attention to the question of privileged and case-related materials;<sup>32</sup> (ii) the Registrar clearly set out that [REDACTED] did not have access to any privileged materials, whether digital or physical, and this is consistent with the information available to the SPO;<sup>33</sup> (iii) disclosure is not warranted in circumstances where the purported basis for it has been expressly rebutted;<sup>34</sup> (iv) to the extent the Defence is attempting to expand its basis to access non-public information, this does not meet the applicable test for a conflict of interests and ignores the fact that [REDACTED] is bound by the terms of a strict non-disclosure agreement ("NDA") which prohibits him from disclosing, sharing or using any non-public information gained in the course of his prior employment;<sup>35</sup> (v) the possibility of such access to non-public information would not in itself provide a legitimate basis for the requests made, as it is common for a prosecutor to have

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<sup>28</sup> Request, para. 15.

<sup>29</sup> Request, para. 15.

<sup>30</sup> Request, para. 15.

<sup>31</sup> Request, para. 15.

<sup>32</sup> Response, para. 2.

<sup>33</sup> Response, para. 2.

<sup>34</sup> Response, para. 3.

<sup>35</sup> Response, para. 4.

insight into non-public information, including concerning Accused, whether from interviews of close associates, surveillance measures, or other sources;<sup>36</sup> and (vi) since joining the SPO as an Associate Prosecutor, [REDACTED] NDA has been fully respected, and the SPO has neither sought, nor has [REDACTED] volunteered, any such non-public information.<sup>37</sup>

22. The Defence replies that: (i) the SPO's reliance upon the existence of the strict NDA in place reinforces the existence of real and well-founded concerns about the existence of potential conflicts of interest;<sup>38</sup> (ii) any information which [REDACTED] would have come to know in his prior position is not information that would, in the ordinary course of events, be known to the broader SPO team or subject to a formal disclosure review and analysis;<sup>39</sup> (iii) a legitimate query arises as to whether, and to what extent, [REDACTED] was [REDACTED] where such privileged materials would have been present, and whether those materials could be read by those present;<sup>40</sup> and (iv) the issue for the Panel is not whether material on this topic is disclosable *per se*, but the extent of the disclosure required to ensure the Defence can adequately deal with the potential conflict and make any informed decisions that arise in terms of next steps.<sup>41</sup>

#### A. REQUESTED DISCLOSURE FROM THE SPO

23. Rule 102(3) requires the SPO to provide detailed notice to the Defence of any material and evidence in its possession, and to disclose to the Defence upon request, any statements, documents, photographs and allow inspection of other tangible objects in the custody or control of the SPO, which are deemed by the Defence to be material to its preparation, or were obtained from or belonged to the Accused. The

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<sup>36</sup> Response, para. 5.

<sup>37</sup> Response, para. 6.

<sup>38</sup> Reply, para. 3.

<sup>39</sup> Reply, para. 4.

<sup>40</sup> Reply, para. 6.

<sup>41</sup> Reply, para. 8.



formulation 'material to its preparation' is to be construed broadly and refers to all documents and objects of relevance to the preparation of the Defence case, in the exercise of the Accused's rights under the Law and the Rules.<sup>42</sup> What is relevant in this context should not necessarily be limited by the temporal scope of the confirmed indictment nor should it be confined to material relevant to countering the SPO's case.<sup>43</sup> The Defence preparation is also a broad concept and need not be limited to what is directly linked to exonerating or incriminating evidence,<sup>44</sup> or related to the SPO's case.<sup>45</sup> The disclosure system is not, however, to be used as a means to embark on a fishing expedition.<sup>46</sup>

24. The Panel notes that the Defence is seeking disclosure from the SPO of the following information: (i) the extent of the SPO's knowledge about the details of [REDACTED] prior employment in the DMU;<sup>47</sup> (ii) details regarding the steps taken to ensure that no conflict or prejudice to the Accused arose;<sup>48</sup> (iii) whether any discussions were held amongst SPO management and/or [REDACTED] himself on how to manage any potential conflict of interest;<sup>49</sup> (iv) whether any concerns were raised within the SPO or the Registry regarding [REDACTED] prior employment;<sup>50</sup> (v) whether any consideration was given to the implementation of information barriers within the SPO to prevent any conflict of interest or unauthorised information sharing by [REDACTED];<sup>51</sup> and (vi) why [REDACTED]

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<sup>42</sup> F00099, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* ("Framework Decision"), 23 November 2020, para. 62, and references therein

<sup>43</sup> Framework Decision, para. 62, and references therein.

<sup>44</sup> Framework Decision, para. 62, and reference therein.

<sup>45</sup> Framework Decision, para. 62, and references therein.

<sup>46</sup> ICTY, *Prosecutor v. Bralo*, IT-95-17-A, [Decision on Motions for Access to Ex Parte Portions of the Record on Appeal and for Disclosure of Mitigating Material](#), 30 August 2006, para. 30; *Prosecutor v. Milošević*, IT-98-29/1-A, [Decision on Motion Seeking Disclosure of Rule 68 Material](#), 7 September 2012, para. 5; *Prosecutor v. Brđanin and Talić*, IT-99-36-T, [Decision on Motion by Momir Talić for Disclosure of Evidence](#), 27 June 2000, para. 7.

<sup>47</sup> Request, para. 17(a)(i-ii).

<sup>48</sup> Request, para. 17(b)(i-iv).

<sup>49</sup> Request, para. 17(c).

<sup>50</sup> Request, para. 17(d).

<sup>51</sup> Request, para. 17(e).

publicly available professional profiles such as LinkedIn omit any reference to his prior employment at the DMU.<sup>52</sup>

25. It is apparent from the above that the Defence is not primarily seeking disclosure of ‘materials and evidence’ deemed by the Defence to be material to its preparation, such as “statements, documents, photographs”, or “other tangible objects”, as set out in Rule 102(3). Rather, the Defence primarily seeks disclosure of information relating to “whether a formal decision was made that [REDACTED] would not be assigned to Case KSC-BC-2023-12”, and the “extent of the SPO’s knowledge” as well as unspecified “details”, “discussions”, “concerns”, “consideration[s]”, and other information regarding [REDACTED] prior employment in the DMU. The Panel does not consider that Rule 102(3) requires the SPO to provide information which is not “material and evidence” in the SPO’s possession. The Panel therefore finds that the requested information does not constitute “material and evidence” pursuant to Rule 102(3), and is therefore not disclosable under that Rule.

26. The Panel considers that the Defence requests for information and the present application are being used in part as a fishing expedition intended to dredge information which the Defence hopes the SPO (and/or Registry) might possess and might support the Defence’s claim of a conflict of interest.

27. In regards to the Defence’s requests for disclosure of internal SPO correspondence, memoranda, meeting notes, or records discussing or referencing [REDACTED] prior employment,<sup>53</sup> the Panel notes the following: If they exist, the requested documents would constitute internal work products of the SPO and would therefore fall under Rule 106.<sup>54</sup> As such, they would not be subject to

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<sup>52</sup> Request, para. 17(g).

<sup>53</sup> Request, para. 17(f)(i-v), (h).

<sup>54</sup> See KSC-BC-2020-07, F00413, *Decision on the Prosecution Challenges to Disclosure of Items in the Updated Rule 102(3) Notice*, 3 November 2021, para. 63 (a public redacted version was issued on 16 December 2021, F00413/RED).

disclosure or notification, since there have been no submissions by the Parties suggesting that the material sought contains exculpatory evidence under Rule 103. Furthermore, it is the Panel's understanding that the SPO has already disclosed information to the Defence concerning [REDACTED] prior employment at the DMU *via* email<sup>55</sup> as well as a [REDACTED].<sup>56</sup> There is no indication before this Panel that the SPO failed to disclose any material which it is required to disclose under the Rules.

28. The Panel reminds the SPO of its obligations under Rule 102(3) and 103. If the SPO possesses or comes into possession of any further materials falling under Rule 102(3) relating to [REDACTED] prior employment in the DMU, the SPO must provide detailed notice to the Defence, and the SPO remains under an ongoing duty to disclose material falling under Rule 103.

#### B. REQUESTED DISCLOSURE FROM THE REGISTRY

29. Rule 102(3) provides that *the Specialist Prosecutor* shall disclose material and evidence which is deemed by the Defence to be material to its preparation. This provision does not apply to the Registry. However, pursuant to Article 40(2) and (6) of the Law and Rule 116 of the Rules, the Panel may order the Registry to disclose certain materials if necessary to ensure the fair and expeditious conduct of the trial proceedings and to protect the Accused, witnesses and victims.<sup>57</sup>

30. The Panel notes that the Defence is seeking disclosure from the Registry of the following information: (i) [REDACTED] task, both formal and actual, in any and all roles held during his time at the DMU;<sup>58</sup> (ii) whether, in any and all of the

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<sup>55</sup> Request, Annex 1, pp. 3-4.

<sup>56</sup> Request, Annex 1, p. 3. *See* Disclosure Package 1688.

<sup>57</sup> *See* F01250, Panel, *Decision on Thaçi Defence Motion Regarding the Preservation of Evidence*, 2 February 2023, para. 12.

<sup>58</sup> Request, para. 18(a).

roles [REDACTED] held during his time at the DMU, [REDACTED];<sup>59</sup> (iii) whether, in any and all of the roles [REDACTED] held during his time at the DMU, [REDACTED];<sup>60</sup> (iv) whether, in any and all of the roles [REDACTED] held during his time at the DMU, he had any involvement in, [REDACTED];<sup>61</sup> (v) the exact nature and extent of [REDACTED] provision of administrative support during [REDACTED];<sup>62</sup> (vi) whether the Registry was made aware of [REDACTED] potential employment in advance, or at the time, he was originally hired by the SPO;<sup>63</sup> (vii) whether the SPO ever requested the opinion of the Registry as to whether any conflict of interest existed in the employment of [REDACTED], or whether one was ever provided to the SPO or other person(s);<sup>64</sup> (viii) whether any meetings were held with [REDACTED] and the Registry at the end of his employment with the DMU;<sup>65</sup> (ix) whether the issue of handling any potential conflicts was discussed;<sup>66</sup> and (x) provision of any notes which were taken during the meeting(s).<sup>67</sup>

31. The Panel notes that the Registry has already made submissions addressing the Defence's Initial Disclosure Request. In particular, where available, the Registry provided details and information on: (i) [REDACTED] prior employment at the DMU;<sup>68</sup> (ii) [REDACTED] role in pending cases;<sup>69</sup> (iii) steps taken to ensure no conflicts or prejudice;<sup>70</sup> and (iv) [REDACTED] LinkedIn profile.<sup>71</sup> The Panel is of the view that the Registry has provided the Defence with sufficient information

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<sup>59</sup> Request, para. 18(b).

<sup>60</sup> Request, para. 18(c).

<sup>61</sup> Request, para. 18(d).

<sup>62</sup> Request, para. 18(e).

<sup>63</sup> Request, para. 18(f).

<sup>64</sup> Request, para. 18(g).

<sup>65</sup> Request, para. 18(h).

<sup>66</sup> Request, para. 18(h)(i).

<sup>67</sup> Request, para. 18(h)(ii).

<sup>68</sup> Registry Submissions, paras 5-22.

<sup>69</sup> Registry Submissions, para. 23.

<sup>70</sup> Registry Submissions, paras 24-34.

<sup>71</sup> Registry Submissions, para. 35.

to address its concerns. Contrary to the Defence's submissions,<sup>72</sup> the Registry Submissions did address the nature of [REDACTED],<sup>73</sup> his involvement with [REDACTED],<sup>74</sup> and how conflict checks were performed in this instance.<sup>75</sup>

32. There is no indication before this Panel that the Registry failed to provide information to the Defence that might be relevant to ensuring fairness in this matter. The Panel therefore finds that the Defence has failed to articulate a basis for the further queries raised with the Registry, and the relevant part of the Request also constitutes, in effect, a fishing expedition.

33. In light of the above, the Panel declines to order further disclosure from the Registry.

## V. CLASSIFICATION

The Panel notes that the Registry Submissions, the Request, the Response and the Reply were filed confidentially. The Panel therefore orders the Parties and the Registry to file public redacted versions of the Registry Submissions, the Request, the Response and the Reply by **Friday, 22 August 2025**.

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<sup>72</sup> Request, para. 14.

<sup>73</sup> Registry Submissions, paras 5-6.

<sup>74</sup> Registry Submissions, paras 27-33.

<sup>75</sup> Registry Submissions, paras 24-25.

## VI. DISPOSITION

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

- a) **DENIES** the Request; and
- b) **ORDERS** the Parties and the Registry to file public redacted versions of the Registry Submissions, the Request, the Response and the Reply, by **Friday, 22 August 2025**.



**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Friday, 25 July 2025

At The Hague, the Netherlands.