



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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: 19 January 2026

Language: English

Classification: Public

**Decision on “Prosecution Request for Rule 102(1)(b) Disclosure & Amendment
of the Exhibit List”**

Specialist Prosecutor
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon
Luka Mišetić

Specialist Counsel for Bashkim Smakaj
Jonathan Rees
Huw Bowden

Specialist Counsel for Isni Kilaj
Iain Edwards
Joe Holmes

Specialist Counsel for Fadil Fazliu
David Young

Specialist Counsel for Hajredin Kuçi
Alexander Admiraal

THE SINGLE TRIAL JUDGE, pursuant to Articles 21(4)(c) and (6), and 40(2) and (6)(b) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 102(1)(b), (2) and (4), and 118(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues this decision.¹

I. PROCEDURAL BACKGROUND

1. On 10 December 2025, the Specialist Prosecutor's Office ("SPO") filed a request seeking authorisation to disclose additional evidentiary material pursuant to Rule 102(1)(b), and to add these and other recently-disclosed items to its list of exhibits.²
2. On 17 December 2025, the Accused ("Defence") jointly responded to the Request, opposing it in part.³
3. On 19 December 2025, the SPO replied.⁴

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

² KSC-BC-2023-12, F00614, Specialist Prosecutor, *Prosecution Request for Rule 102(1)(b) Disclosure & Amendment of the Exhibit List* ("Request"), 10 December 2025, confidential, paras 1, 27. A public redacted version was filed on 15 December 2025, F00614/RED.

³ KSC-BC-2023-12, F00628, Defence for Hashim Thaçi, Hajredin Kuçi, Fadil Falziu, Isni Kilaj and Bashkim Smakaj, *Joint Defence Response to Prosecution Request for Rule 102(1)(b) Disclosure & Amendment of the Exhibit List (F00614)* ("Response"), 17 December 2025, confidential, para. 34. A public redacted version was filed on 19 December 2025, F00628/RED.

⁴ KSC-BC-2023-12, F00639, Specialist Prosecutor, *Prosecution Reply to 'Public Redacted Version of Joint Defence Response to Prosecution Request for Rule 102(1)(b) Disclosure & Amendment of the Exhibit List (F00614)'*, 19 December 2025, public.

II. SUBMISSIONS

A. SPO

4. The SPO seeks authorisation to amend its list of exhibits with two categories of items: (i) “Further Material” which was in its possession as of the deadline for disclosure of Rule 102(1)(b) material, namely on 17 February 2025⁵ (for which it also requests formal authorisation to disclose); and (ii) “Recently Disclosed Material” which was not in its possession on 17 February 2025, and much of which was “obtained by the SPO in the past month from the Independent Counsel (‘IC’), the EFC [External Forensic Company], and/or the External Forensic Institute (‘EFI’), as a result of ongoing investigative measures previously authorised by the [Pre-Trial Judge]”.⁶

5. In respect of the Further Material, the SPO argues that it is limited in number, scope, volume and complexity; will improve the overall understanding of the SPO’s evidence; is relevant and probative of the indictment; does not present novel aspects of the SPO’s case; is disclosed timely, as no final deadline has been set for the full disclosure of Rule 102(1)(b) material; and its disclosure and addition to the list of exhibits causes no prejudice to the Defence.⁷ As for the Recently Disclosed Material, the items are similarly limited in number, were obtained from (external) parties over which the SPO does not have control, are of a type whose addition to the exhibit list was foreseeable to the Defence, and cause it no prejudice.⁸

⁵ KSC-BC-2023-12, F00100, Pre-Trial Judge, [Framework Decision on Disclosure of Evidence and Related Matters](#) (“Framework Decision on Disclosure”), 20 December 2024, public, paras 45, 104(c).

⁶ Request, paras 1, 17, 27.

⁷ Request, paras 3, 4; Reply, paras 2, 3, 5.

⁸ Request, para. 17.

B. DEFENCE

6. The Defence opposes the addition of all of the Further Material to the exhibit list, arguing that it was in the SPO's possession prior to the expiry of the applicable deadlines for disclosure and filing of the exhibit list; that the SPO fails to explain why these items were not identified and disclosed earlier; that the items are either not relevant, not necessary, or not probative; and that their addition to the SPO's exhibit list would be highly prejudicial to the Defence.⁹ The Defence also opposes the addition of one of the Recently Disclosed Items on the basis that it is "clearly inadmissible".¹⁰

III. APPLICABLE LAW

7. Article 21(4)(c) prescribes that an accused "shall be entitled" to "have adequate time and facilities for the preparation of his or her defence". Article 21(6) requires that "[a]ll material and relevant evidence or facts in possession of the Specialist Prosecutor's Office which are for or against the accused shall be made available to the accused before the beginning of and during the proceedings". Rule 102(1)(b) requires the SPO to disclose to the Defence, within a time limit set by the Panel and no later than thirty (30) days prior to the opening of the SPO's case, "the exhibits that the Specialist Prosecutor intends to present at trial". This disclosure is to be "finalised during the pre-trial stage", pursuant to Rule 102(4), and "[t]hereafter, the Specialist Prosecutor shall provide notice of any new disclosure accompanied by reasons for the late disclosure".

8. Rule 95(4)(c) also requires the SPO to file, within a set time limit, the list of the exhibits it intends to present at trial. This list may be later amended with the

⁹ Response, paras 15-23.

¹⁰ Response, paras 24-32.

permission of the Panel, upon timely notice and a showing of good cause, pursuant to Rule 118(2).

IV. DISCUSSION

9. Any disclosure under Rule 102(1)(b) made after the applicable deadline must, according to Rule 102(4), be accompanied by “notice” and by “reasons for the late disclosure”. Additions to the SPO exhibit list after the applicable deadline may be permitted by the Panel, pursuant to Rule 118(2), “upon timely notice and a showing of good cause”. The Single Trial Judge considers that the question of “timely notice” in relation to the amendment of the exhibit list may take into consideration whether disclosure was effected prior to the Rule 102(1)(b) deadline and, if not, the reasons advanced for the late disclosure. The Single Trial Judge does not understand that prior authorisation is required for disclosure under Rule 102(1)(b); indeed, the items in the Request were disclosed to the Defence on 10 December 2025 when the Request was made¹¹ and this actual date of disclosure may be taken into account in assessing whether the amendment of the exhibit list should be permitted.¹²

10. As a preliminary matter, the SPO’s assertion that there is no applicable Rule 102(1)(b) deadline¹³ is rejected. Although the Pre-Trial Judge did use the word “preliminary” to describe the Rule 102(1)(b) deadline of 17 February 2025

¹¹ Request, fn. 3; Disclosure Package 88; Response, para. 13.

¹² KSC-BC-2020-06, F01785/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Requests to Amend the Exhibit List \(F01689 and F01747\)](#) (“Case 06 Decision F01785/RED”), 12 September 2023, para. 20 (“previous disclosure of an item, considered along with other factors, could satisfy the Panel that the Defence has been provided with a degree of notice of the content of the item and that an amendment to the Exhibit List in respect of that item would not adversely affect the Defence’s ability to prepare for trial. In other words, previous disclosure is one of a number of factors that the Panel can take into account when assessing, holistically, whether the late addition of an item would prejudice the Defence”).

¹³ Request, paras 2, 4; Reply, para. 2.

set in the Framework Decision on Disclosure,¹⁴ she also ruled on SPO requests to offer Rule 102(1)(b) disclosure after the expiry of this deadline. Hence, on 17 October 2025, she ruled on one such SPO request, treating it as “a request for an extension of the 17 February 2025 time limit.”¹⁵ She proceeded to assess the request according to whether “the SPO has shown good cause” as balanced against “any potential prejudice to the Defence as a result of granting the Request.”¹⁶ It follows that the term “preliminary” meant only that disclosures after the 17 February 2025 deadline were anticipated in light of ongoing investigations, and that the disclosure and addition of such items to the exhibit list could be judicially authorised in accordance with the applicable standards notwithstanding the 17 February 2025 deadline.

11. In any event, the deadline for the SPO exhibit list was 19 September 2025,¹⁷ and any additions thereto must be based “upon timely notice and a showing of good cause” and that “no undue prejudice is caused to the Defence by the Amendment of the Exhibit List at this point in the proceedings.”¹⁸

12. The Further Material appears to have all been in the SPO’s possession prior to the 17 February 2025 disclosure deadline. While the Single Trial Judge accepts that the relevance of two of the twelve items may have become apparent only

¹⁴ KSC-BC-2023-12, F00509, Pre-Trial Judge, [Decision Authorising Disclosure under Rule 102\(1\)\(b\) of the Rules](#) (“Decision Authorising Disclosure”), 17 October 2025, public, para. 1, referring to [Framework Decision on Disclosure](#), paras 45, 104(c).

¹⁵ [Decision Authorising Disclosure](#), para. 20.

¹⁶ [Decision Authorising Disclosure](#), para. 20.

¹⁷ KSC-BC-2023-12, F00395, Pre-Trial Judge, [Order Relating to the Calendar for the Remaining Pre-Trial Proceedings](#), 25 July 2025, paras 16, 18(c).

¹⁸ KSC-BC-2020-06, F01656/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List](#) (“Case 06 Decision F01656/RED”), 7 July 2023, public, paras 10, 16; F01544, Trial Panel II, [Decision on Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List](#), 23 May 2023, public, para. 8; F01352/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Request to Amend the Exhibit List and Related Matters](#), 8 March 2023, public, paras 28, 32; KSC-BC-2020-07, F00321, Trial Panel II, [Decision on Prosecution’s Request for Leave to Amend its List of Exhibits](#), 23 September 2021, public, paras 15-16.

as a result of investigative steps that took place in November 2025,¹⁹ the remaining ten items appear to have been identified as a result of ongoing “final trial preparation”.²⁰

13. The considerations relevant to timeliness and good cause include “whether the proposed evidence is *prima facie* relevant, and of probative value to the charges against an accused, the complexity of the case, on-going investigations, and translation of documents and other material”.²¹ Complexity may specifically be impacted, as explained by Trial Panel II, where a case “overlaps with other ongoing proceedings”.²² As the Court of Appeals Panel has explained, “in the context of a complex multi-accused trial in which a considerable amount of evidence is presented by the prosecution, a certain level of flexibility must be maintained, although the adequate protection of the accused’s rights remains the primary concern”.²³ However, as also observed by the Court of Appeals Panel, “the addition of exhibits at the pre-trial stage has generally been treated with flexibility”.²⁴

14. The addition of the Further Material, given all the circumstances, is timely and supported by good cause. The content of the documents appears, on a *prima facie* basis, to be relevant to the charges. Although the relevance and probative value of the information is contested by the Defence in various respects,²⁵ the

¹⁹ Request, para. 14, referring to Forensic Firm Technical Report contained in Annex 1 to KSC-BC-2023-12, F00539, Decision further to “Independent Counsel Report pursuant to Decision F00437”, 10 November 2025, confidential, with Annex 1, strictly confidential and *ex parte*.

²⁰ Request, para. 4.

²¹ [Case 06 Decision F01656/RED](#), para. 23.

²² KSC-BC-2020-06, F01995/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Request to Amend the Exhibit List \(F01844\)](#) (“Case 06 Decision F01995/RED”), 8 December 2023, public, para. 14.

²³ KSC-BC-2020-06, IA019/F00006, Court of Appeals Panel, [Decision on Thaçi’s Appeal against “Decision on Specialist Prosecutor’s Request to Amend its Exhibit List and to Authorise Related Protective Measures”](#) (“Court of Appeals Decision”), 12 July 2022, public, para. 21.

²⁴ [Court of Appeals Decision](#), para. 21.

²⁵ Response, para. 20.

grounds raised (such as redundancy with other evidence,²⁶ *post facto* creation,²⁷ marginal significance,²⁸ or impermissibly exceeding the scope of the case²⁹) are more suitable for consideration of admissibility or weight.³⁰ This case is sufficiently complex to justify the identification by the SPO of additional documents of relevance after February 2025. In addition, two of the documents within the Further Material appear to have been identified at this stage as a result of investigations that are ongoing for reasons that relate, in part, to technical services being provided by third parties and a process of review of information by an Independent Counsel.³¹ Conversely, the mere fact that the other items cannot be connected to recently-obtained evidence does not negate good cause.³²

15. Whether the addition of these items causes undue prejudice to the Defence includes an assessment of: (i) the amount of material concerned;³³ (ii) the stage of the proceedings;³⁴ (iii) whether the material presents any new aspects of the SPO's case;³⁵ and (iv) any impact on the accused's right to have sufficient time to prepare for trial or to be tried within a reasonable time.³⁶

²⁶ Response, para. 23.

²⁷ Response, para. 20(iii).

²⁸ Response, paras 22, 23(iii).

²⁹ Response, para. 23(i) and (ii).

³⁰ [Case 06 Decision F01995/RED](#), para. 26 (“the Panel reiterates that when deciding whether to grant the addition of a particular item to a Party’s exhibit list, the Panel need not assess whether the proposed item is admissible, but only needs to satisfy itself that the proposed item is *prima facie* relevant and of sufficient importance to justify the late addition”); KSC-BC-2020-06, F03457, Trial Panel II, [Decision on Thaçi Defence Request to Amend the Exhibit List](#), 10 September 2025, public, para. 11 (“a decision authorizing the addition of an item to a Party’s exhibit list is without prejudice to the Panel’s subsequent decision on whether that item should be admitted into evidence”).

³¹ Request, paras 13-14.

³² [Case 06 Decision F01785/RED](#), para. 27 (“while a Party’s late realization of an item’s importance alone is insufficient to demonstrate good cause, the Panel acknowledges that the relevance and importance of certain items may become more apparent to a Party as the trial proceeds”).

³³ [Case 06 Decision F01656/RED](#), para. 16.

³⁴ [Case 06 Decision F01656/RED](#), para. 16.

³⁵ [Court of Appeals Decision](#), para. 22; [Case 06 Decision F01656/RED](#), para. 16 (“relate to known aspects of the SPO’s case”).

³⁶ [Court of Appeals Decision](#), para. 24; [Case 06 Decision F01656/RED](#), para. 16.

16. The addition of the Further Material at this stage of proceedings causes no undue prejudice. Overall, the volume of material is relatively limited and has been disclosed more than two months before the start of trial. The Further Material does not appear to involve new aspects of the SPO's case, although the Single Trial Judge is mindful of the submission that at least one new channel of communication between a member of one of the groups and a Case 06 witness is potentially identified in one of the items.³⁷ However, this information appears to be primarily contextual, corroborative, and not dissimilar in character to other types of information that are already part of the SPO's evidence and explicitly within the scope of its case. In any event, sufficient time remains for the Defence to conduct additional investigations in relation to the discrete matters raised by the addition of these new items to the SPO exhibit list. Furthermore, submissions concerning relevance or prejudice may be made in relation to the admissibility or weight of any of the items within the Further Material, as deemed appropriate by the Defence.

17. In respect of the Recently Disclosed Items, the Single Trial Judge notes that the Defence does not object to the addition of these items to the SPO's exhibit list, with one exception. In respect of this single document, the Defence argues that it is "clearly inadmissible" for various reasons, including that it is testimonial in character and its authorship is "anonymous".³⁸ The SPO contests the Defence's factual description and legal characterization.³⁹ The Single Trial Judge is of the view that the legal and factual questions surrounding this document, and their impact on its admissibility, are more appropriately addressed at the stage of admissibility.⁴⁰

³⁷ Request, paras 9-10; Response, para. 23(i) and (ii).

³⁸ Response, paras 24-32.

³⁹ Reply, para. 4.

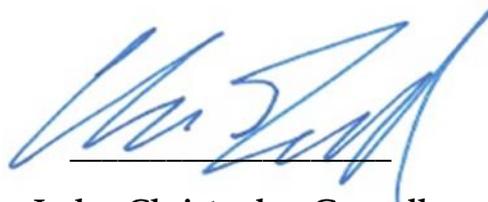
⁴⁰ KSC-BC-2020-06, F02501/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Request to Amend the Exhibit List \(F02279\) and on Thaçi Defence Motion for Exclusion of Materials in](#)

18. In the absence of objections by the Defence to any of the other Recently Disclosed Items, and given the indications of good cause, the Single Trial Judge sees no basis to deny their addition to the SPO exhibit list.

V. DISPOSITION

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

- a. **GRANTS** the Request;
- b. **AUTHORISES** the SPO to amend its list of exhibits by adding the items set out in the Request and formally disclosing the Further Material pursuant to Rule 102(1)(b); and
- c. **ORDERS** the SPO to file its amended list of exhibits by no later than **Wednesday, 21 January 2026, at 16h00.**



Judge Christopher Gosnell
Single Trial Judge

Dated this Monday, 19 January 2026

At The Hague, the Netherlands.

[Limine](#), 22 August 2024, public, para. 30 (“The Panel recalls that [probative value and authenticity] need not be addressed when establishing good cause for the purpose of granting leave to amend the Exhibit List”).