



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:** 29 January 2026

**Language:** English

**Classification:** Public

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**Decision on Prosecution Request for Transcription/Translation Verification  
Deadline**

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**THE SINGLE TRIAL JUDGE**, pursuant to Article 21(4) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 8(4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues this decision.<sup>1</sup>

## I. PROCEDURAL BACKGROUND

1. On 14 January 2026, the Specialist Prosecutor's Office ("SPO") requested that the Single Trial Judge impose a deadline by which the Defence must identify its challenges to the accuracy of portions of transcripts and/or translations prepared by the SPO of audio recordings of conversations purportedly involving the Accused at the Specialist Chambers Detention Facilities.<sup>2</sup>

2. On 20 January 2026, the Defence jointly responded, opposing the request.<sup>3</sup>

3. On 21 January 2026, the SPO replied.<sup>4</sup>

## II. SUBMISSIONS

### A. SPO

4. The SPO requests that the Defence be required, by 26 January 2026 at 16h00, to "identify – with specificity as to page(s) and line number(s) – the portions of the Exhibit-listed Detention Centre audio recording transcripts/translations which the Defence challenges the accuracy of, if they

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

<sup>2</sup> KSC-BC-2023-12, F00666, Specialist Prosecutor, *Prosecution Request for Transcription/Translation Verification Deadline*, 14 January 2026, confidential, para. 1 ("Request"); a public redacted version was filed the same day, F00666/RED.

<sup>3</sup> KSC-BC-2023-12, F00683, Defence, *Joint Defence Response to Prosecution Request for Transcription/Translation Verification Deadline (F00666)* ("Response"), 20 January 2026, confidential; a public redacted version was submitted on 21 January 2026, F00683/RED.

<sup>4</sup> KSC-BC-2023-12, F00686, Specialist Prosecutor, *Prosecution Reply to "Joint Defence Response to Prosecution Request for Transcription/Translation Verification Deadline (F00666)"* ("Reply"), 21 January 2026, confidential.

want to do so”.<sup>5</sup> The eleven transcripts (“Visit Transcripts”) are listed as exhibits and their admission has been sought by written motion.<sup>6</sup> The SPO requests that it be the intermediary for such requests – i.e. that the Defence should provide its requests to the SPO, which will in turn submit them to the Language Services Unit (“LSU”).<sup>7</sup> The SPO also “invites” the Single Trial Judge to inform the Parties as to whether he has any such verification requests to make.<sup>8</sup>

5. The SPO argues in reply that the Request does not “compel” the Defence to make any challenges to the accuracy of the Visit Transcripts, and does not reverse the burden of proof or the nor violate the Accused’s right to silence.<sup>9</sup> The Defence’s arguments are also said to confuse admissibility of the Visit Transcripts “with specific challenges as to their accuracy as transcribed/translated”.<sup>10</sup>

## B. DEFENCE

6. The Defence disputes the accuracy of the Visit Transcripts “in their entirety” and argues that being required to identify only specific errors would

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<sup>5</sup> Request, paras 1-2, 7. **Regarding Bashkim Smakaj** (“Mr Smakaj”), the SPO recalls that the Defence in its Pre-Trial Brief identified two purported translation errors in a transcript, *see* KSC-BC-2023-12, F00513, Defence for Mr Smakaj (“Smakaj Defence”), *Smakaj Pre-Trial Brief in accordance with Rule 95(5)*, 19 October 2026, confidential, paras 10-11; a public redacted version was submitted on 27 January 2026, F00513/RED. The SPO also informs the Single Trial Judge that on 17 December 2025, it disclosed to the Defence a revised version of the transcript concerned in relation to which the Smakaj Defence raised the two specific accuracy objections (*see* Request, footnote 13). **Regarding Hashim Thaçi** (“Mr Thaçi”), the SPO also claims that the Defence challenged the accuracy and/or reliability of transcripts in a generic sense, and that Mr Thaçi “disputes every attribution of every person on every transcript unless he expressly admits otherwise” (*see* Request, para. 4), with reference to KSC-BC-2023-12, Defence for Mr Thaçi, *Thaçi Defence Notice of Objection and Reservation of Rights*, 17 July 2025, public.

<sup>6</sup> *See* Request, paras 3, 6; KSC-BC-2023-12, F00685, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 21 January 2026, public, with Annex 1, confidential; F00632, Specialist Prosecutor, *Prosecution Motion for Admission of Material Through the Bar Table*, 17 December 2025, confidential, with Annex 1, confidential; a public redacted version was submitted on 7 January 2026, F00632/RED.

<sup>7</sup> Request, paras 1, 7.

<sup>8</sup> Request, para. 9.

<sup>9</sup> Reply, para. 2-4.

<sup>10</sup> Reply, para. 4.

“reverse the burden of proof and violate the right to silence of the Accused”.<sup>11</sup> As to the former, the identification of only limited errors could give rise to an assumption by the Single Trial Judge “that any other portions of the transcripts are accurate and reliable”, thus reversing the burden of proof.<sup>12</sup> The Defence submits that the precedent relied on by the SPO from the case of *The Specialist Prosecutor v Hysni Gucati and Nasim Haradinaj* (“Case 07”) is inapposite, as it did not involve audio-recordings whose reliability is challenged, as in this case, on the basis that they are “indistinct”.<sup>13</sup>

### III. APPLICABLE LAW

7. An accused is entitled, pursuant to Article 21(4)(d) and (h), to be tried within a reasonable time and not to be compelled to testify against himself. The Single Trial Judge is required to ensure under Article 40(2) that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules of Procedure and Evidence, with full respect for the rights of the accused.

8. Rule 8(4) requires the Registrar to make “necessary arrangements for interpretation and translation into and from the working language(s) and a language used by the accused or suspect, as provided in the Rules or ordered by the Panel.

### IV. DISCUSSION

9. The Single Trial Judge recalls that, on 11 December 2024, the Pre-Trial Judge, after having heard the Parties,<sup>14</sup> issued the Decision on Working

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<sup>11</sup> Response, paras 6, 9.

<sup>12</sup> Response, para. 9.

<sup>13</sup> Response, para. 10.

<sup>14</sup> See KSC-BC-2023-12, F00059, Pre-Trial Judge, *Decision Setting the Date for Initial Appearances and Related Matters*, 6 December 2024, public, paras 18-20. See also, Transcript of Hearing, 8 December 2024, public, pp. 1-20 (for Mr Thaçi); pp. 21-44 (for Mr Smakaj); pp. 45-69 (for Fadil Fazliu); Transcript of Hearing, 9 December 2024, public, pp. 70-84 (for Hajredin Kuçi); pp. 85-125 (for Isni Kilaj).

Language for the purpose of “ensur[ing] the fair, efficient and expeditious conduct of proceedings”; “facilitat[ing] the efficient preparation and organisation of a Party’s or participant’s submissions”; and “increas[ing] the foreseeability and planning capacity of language servicing sections within the Registry and the SPO”.<sup>15</sup>

10. In that decision, the Pre-Trial Judge adopted English as the working language of these proceedings and prescribed that “a translation into English must be provided” for any “annexes, supporting material or other evidence upon which the Parties or any participant [may] rely”.<sup>16</sup> The Pre-Trial Judge specified that this requirement applies to material produced by a Party or a participant, or collected from any other source.<sup>17</sup> The requirements for providing translations of audio material is addressed specifically:

In respect of any audio, video or online material, parties and any participant, as applicable may not rely upon such material without providing a transcription thereof. For any such material, the following details must be provided:

- (a) If applicable, the relevant online source as well as the date and time at which it was last accessed;
- (b) The exact time slot or text extracts, as the case may be, upon which a Party or a participant, as applicable, relies;
- (c) A transcription of the relevant extract in its original language, whether in the main filing or in an annex thereto; and

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<sup>15</sup> KSC-BC-2023-12, F00076, [Decision on Working Language](#) (“Decision on Working Language”), 11 December 2024, public, para. 7.

<sup>16</sup> [Decision on Working Language](#), para. 9. The Pre-Trial Judge clarified that this is a general obligation of the Parties (and any participant) *prior* to the submission of any filing, including annexes, supporting material or other evidence (*see* Decision Working Language, paras 12, 14).

<sup>17</sup> [Decision on Working Language](#), para. 14.

(d) If submitted by a Party or participant, an English translation of the transcribed extract.<sup>18</sup>

11. The Decision on Working Language also indicates that “translations provided by qualified translators, either within the LSU or by the SPO language services, are preferred”.<sup>19</sup> In any event, the source of such translations, whether from the SPO, the Defence or Victims, must be indicated on the translation.<sup>20</sup>

12. Requests to the LSU, according to the Decision on Working Language, “shall be made sufficiently in advance, and in line with the protocols in place, so as to allow for the proper translation and revision of the text elements concerned”.<sup>21</sup> In respect of the relationship between the LSU and the SPO’s own transcription and translation capacities, the decision comments that “[w]hilst the SPO has its own language services, it is encouraged to coordinate and cooperate with the LSU in translation matters so as to expedite proceedings and maximise efficiency”.<sup>22</sup>

13. Disputes concerning the accuracy of translations are also addressed in the Decision on Working Language: “[a]ny disagreement or controversy regarding the accuracy of translations shall be resolved by the LSU”.<sup>23</sup>

14. No Party appealed the Decision on Working Language, nor sought its reconsideration following the SPO’s disclosure of the Visit Transcripts to the Defence. Accordingly, the Decision on Working Language remains applicable in these proceedings. It prescribes unequivocally that any “disagreement or controversy” regarding the accuracy of translations, which includes any errors

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<sup>18</sup> [Decision on Working Language](#), para. 16.

<sup>19</sup> [Decision on Working Language](#), para. 17.

<sup>20</sup> [Decision on Working Language](#), para. 19.

<sup>21</sup> [Decision on Working Language](#), para. 20.

<sup>22</sup> [Decision on Working Language](#), para. 21.

<sup>23</sup> [Decision on Working Language](#), para. 27.

in the process of the transcription of audios and their subsequent translation, is to be resolved by resort to the LSU.<sup>24</sup>

15. The Single Trial Judge does not consider that setting a deadline as requested by the SPO would “reverse the burden of proof and violate the right to silence of the Accused”.<sup>25</sup> As to the burden of proof, the Decision on Working Language imposes an initial obligation on the tendering party, in this case the SPO, to provide a transcription (in the original language) and translation (in English) of any audio material in a language other than English. The burden to provide translations set out in the Decision on Working Language is very different from the burden of proof to establish facts. Unlike proof of facts, the accuracy of translations involves, of necessity, a neutral and specialised arbiter – the LSU. Permitting the Defence (or any other Party which has not produced a particular translation) to challenge the accuracy of the translation that has been produced by another party does not constitute a reversal of the SPO’s burden of proof to establish material facts beyond a reasonable doubt.

16. Nor does this procedure “violate the right to silence of the Accused”.<sup>26</sup> The audio material exists and has already been tendered as evidence. As set out in the Response, the Defence’s primary challenge appears to concern the accuracy of the Albanian language transcriptions upon which the English Visitor Transcripts are based.<sup>27</sup> The key issue, accordingly, is whether certain sounds on these audio recordings have been transcribed accurately into Albanian. That is a purely objective exercise of linguistic analysis. An Accused’s own recollections or belief as to what may have been, or was, said is strictly speaking irrelevant to that exercise. The error may consist of the original transcription

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<sup>24</sup> [Decision on Working Language](#), para. 27.

<sup>25</sup> Response, para. 9.

<sup>26</sup> Response, para. 9.

<sup>27</sup> Response, para. 10 (“There is no suggestion in the publicly available Case 07 material that the recording was indistinct. In the present case, the SPO has tendered more than thirty-five hours of covertly recorded and often indistinct audio material, without video.”)

reflecting the wrong words or erroneously indicating words where none can be deciphered. Either way, the exercise does not involve any affirmation by the Accused about what he said, but rather only about the nature of the error in the transcription (and resultant translation) of the existing audio, based on an objective linguistic assessment.

17. The Defence also appears to object to the imposition of a deadline on the basis that the Visit Transcripts must be tendered “through a witness who is able to testify about their reliability, including as to the process by which these transcripts were created”.<sup>28</sup> Without prejudice to a decision on the pending bar table motion, including the Defence’s objections to the admission of the Visit Transcripts, this approach disregards the procedure set out in the Decision on Working Language. Further, this modality reflects the procedure that has consistently been adopted by this court<sup>29</sup> and by international tribunals that have frequently had to deal with alleged errors of either transcription or translation.<sup>30</sup>

18. While the Single Trial Judge does not consider that any and all translation challenges need to be resolved by LSU before the start of trial or even before the close of the SPO case, it is clearly important that such disputes be raised and

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<sup>28</sup> Response, para. 11.

<sup>29</sup> **Case 04:** KSC-BC-2020-04, F00025, Pre-Trial Judge, *Decision on Working Language*, 21 April 2021, public; **Case 05:** KSC-BC-2020-05, F00032, Pre-Trial Judge, *Decision on Working Language*, 8 October 2020, public; **Case 06:** KSC-BC-2020-06, F00072, Pre-Trial Judge, *Decision on Working Language*, 11 November 2020, public; **Case 07:** KSC-BC-2020-07, F00060, Pre-Trial Judge, *Decision on Working Language*, 29 October 2020, public; **Case 10:** KSC-BC-2023-10, F00033, Pre-Trial Judge, *Decision on Working Language*, 12 October 2023, public.

<sup>30</sup> See, for example, ICC Regulations 23(3) and 39(1) of the Regulations of the Court; ICC Regulations 72 and 75 of the Regulations of the Registry; ICC, *Prosecutor v Jean-Pierre Bemba Gombo et al*, ICC-01/05-01-13-2275-Red, Appeals Chamber, *Public Redacted Judgment on the Appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido Against the Decision of Trial Chamber VII Entitled “Judgment pursuant to Article 74 of the Statute”*, 8 March 2018, public, para. 1339; ICTY, *Prosecutor v Prlić et al*, IT-04-74-A, Appeals Chamber, *Decision on Prlić’s Motion to Replace Translation of Exhibits 4D00348 and 3D03065*, 11 March 2015, public; *Prosecutor v Haradinaj et al*, IT-04-84bis-T, *Decision on Prosecution’s Motion Relating to English Translations of Exhibits Associated with Bislim Zyrapi’s Written Evidence*, 15 December 2011, public.

resolved expeditiously, which is also in the interest of the Accused's right to expeditious proceedings.<sup>31</sup> Indeed, the Decision on Working Language expressly refers to translation requests being made "sufficiently in advance".<sup>32</sup>

19. Accordingly, and in order to facilitate an orderly flow of requests to the LSU, the Single Trial Judge sets the following deadlines for initiating challenges to the accuracy of the Visit Transcripts and other relevant transcripts:

- (i) **4 February 2026** for the transcript of 2 July 2023;<sup>33</sup>
- (ii) **9 February 2026** for the transcript of 6 October 2023;<sup>34</sup>
- (iii) **17 February 2026** for the transcripts of 9 September<sup>35</sup> and 7 October 2023;<sup>36</sup> and
- (iv) **24 February 2026** for the transcript of 3 September 2023;<sup>37</sup>
- (v) **2 March 2026** for transcripts of other visits;<sup>38</sup> and

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<sup>31</sup> Article 21(4)(d).

<sup>32</sup> Decision on Working Language, para. 20.

<sup>33</sup> 114037 020723-115000-140500-TR-AT Revised; 114037 020723-115000-140500-TR-AT Revised-ET.

<sup>34</sup> 116083 061023-111500-135746-TR-AT Revised 1; 116083 061023-111500-135746-TR-AT Revised 1-ET.

<sup>35</sup> 125493 2023-09-09 17-03-04-0038349961000-TR-AT; 125493 2023-09-09 17-03-04-0038349961000-TR-AT-ET.

<sup>36</sup> 116083 071023-113000-135500-TR-AT Revised 2; 116083 071023-113000-135500-TR-AT Revised 2-ET.

<sup>37</sup> 115009 030923-072219-101409-TR-AT Revised 3; 115009 030923-072219-101409-TR-AT Revised 3-ET.

<sup>38</sup> **1 July Visit:** 114024 010723-072909-103046-TR-AT Revised and 114024 010723-072909-103046-TR-AT Revised-ET; **4 August Visit:** 114548 040823-075244-121616-TR-AT Revised 1 and 114548 040823-075244-121616-TR-AT Revised 1-ET; **12 August Visit:** 114642 120823-085000-124707-TR-AT and 114642 120823-085000-124707-TR-AT-ET; **15 September Visit:** 115343 150923-075500-115854-TR-AT Revised 2 and 115343 150923-075500-115854-TR-AT Revised 2-ET; **22 September Visit** 115629 220923-121435-135935-TR-AT Revised 1 and 115629 220923-121435-135935-TR-AT Revised 1-ET; and **1 October Visit:** 115859 011023-075517-115809-TR-AT Revised 1 and 115859 011023-075517-115809-TR-AT Revised 1-ET.

(vi) **13 March 2026** for transcripts of phone calls (“Phone Call Transcripts”) (“altogether, “Transcripts”).<sup>39</sup>

20. The Single Trial Judge considers that certain additional directions are required to ensure that such requests are presented to LSU in a form that expedites their work and ensures that it is conducted as neutrally as possible.

(a) First, the requesting party shall initiate the challenge by circulating *inter partes* a table that indicates: (i) the transcript number and the page and line number of the challenged excerpt; and (ii) the substance of the challenge in any manner it chooses, including by asserting that the excerpt is wholly indecipherable, partially indecipherable, and/or that the sounds represent other words, whether in Albanian or any other language;

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<sup>39</sup> **1 January 2023 phone call:** 125470 2023-01-01 14-04-20-0038344503934-TR-AT and 125470 2023-01-01 14-04-20-0038344503934-TR-AT-ET; **8 March 2023 first phone call:** 125475 2023-03-08 10-24-32-0038344181091-TR-AT and 125475 2023-03-08 10-24-32-0038344181091-TR-AT-ET; **8 March 2023 second phone call:** 125300 2023-03-08 11-51-33-0038349961000-TR-AT and 125300 2023-03-08 11-51-33-0038349961000-TR-AT-ET; **4 April 2023 phone call:** 125477 2023-04-04 18-47-20-0038349950444-TR-AT and 125477 2023-04-04 18-47-20-0038349950444-TR-AT-ET; **13 April 2023 phone call:** 125478 2023-04-13 18-31-57-0038349950444-TR-AT and 125478 2023-04-13 18-31-57-0038349950444-TR-AT-ET; **10 July 2023 phone call:** 125494 2023-07-10 20-10-27-0038349381400-TR-AT and 0038349381400-TR-AT-ET; **20 July 2023 phone call:** 125481 2023-07-20 13-25-23-0038349961000-TR-AT and 125481 2023-07-20 13-25-23-0038349961000-TR-AT-ET; **25 August 2023 phone call:** 125485 2023-08-25 18-56-26-0038349950444-TR-ATr and 125485 2023-08-25 18-56-26-0038349950444-TR-ATr-ET; **1 September 2023 first phone call:** 125639 2023-09-01 15-12-30-0615658504-TRAT and 125639 2023-09-01 15-12-30-0615658504-TRAT-ET; **1 September second phone call:** 125486 2023-09-01 16-48-48-0038349961000-TR-AT and 125486 2023-09-01 16-48-48-0038349961000-TR-AT-ET; **3 September 2023 phone call:** 125298 2023-09-03 16-19-00-0038344503934-TR-AT and 125298 2023-09-03 16-19-00-0038344503934-TR-AT-ET; **5 September 2023 first phone call:** 125490 2023-09-05 08-06-37-0038349961000-TR-AT and 125490 2023-09-05 08-06-37-0038349961000-TR-AT-ET; **5 September second phone call:** 125491 2023-09-05 17-36-16-0038349961000-TR-AT and 125491 2023-09-05 17-36-16-0038349961000-TR-AT-ET; **7 September 2023 phone call:** 125492 2023-09-07 18-24-46-0038349381400-TR-AT and 125492 2023-09-07 18-24-46-0038349381400-TR-AT-ET; **9 September 2023 phone call:** 125493 2023-09-09 17-03-04-0038349961000-TR-AT and 125493 2023-09-09 17-03-04-0038349961000-TR-AT-ET; **10 September 2023 first phone call:** 125469 2023-09-10 14-15-49-0038344503934-TR-ATr and 125469 2023-09-10 14-15-49-0038344503934-TR-ATr-ET; and **10 September 2023 second phone call:** 125468 2023-09-10 15-51-46-0038344503934-TR-ATr and 125468 2023-09-10 15-51-46-0038344503934-TR-ATr-ET.

- (b) Second, the SPO shall, within two working days from receipt of the table, insert or (where applicable) confirm,<sup>40</sup> the precise time-marker of the relevant excerpt on the table and re-circulate this to the requesting party;
- (c) Third, the requesting party shall then send the table immediately to the LSU, with all Parties copied, which will, as soon as practicable, perform its work according to its usual procedures and without any additional input or communications from the SPO or its translators;<sup>41</sup>
- (d) Fourth, the LSU shall then produce a memorandum or other document in any form that it considers most efficient that reports the outcome of the verification procedure, and file it on the record, to be notified to all Parties and the Panel. The Single Trial Judge expects that the LSU will address only words spoken and may differentiate between speakers where possible for clarity but should otherwise avoid attributing identities to different speakers.

21. The Single Trial Judge notes that the SPO has been aware since 19 October 2025 of two translation errors alleged by Mr Smakaj.<sup>42</sup> The Smakaj Defence's submissions already indicate a "disagreement or controversy" which, according to the Decision on Working Language, is to be resolved by LSU. Accordingly, the SPO is directed, notwithstanding the deadlines set out above, to request a verification of two translations errors identified at paragraphs 10 and 11 of the Smakaj Pre-Trial Brief.<sup>43</sup>

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<sup>40</sup> The Single Trial Judge notes that the Phone Call Transcripts do not appear to contain any time specific time stamps or markers, but that such an indication is required by the Decision on Working Language, para. 16(b).

<sup>41</sup> It follows, of course, that there shall be no communications between LSU and SPO translators concerning this task in general or the specific excerpts.

<sup>42</sup> KSC-BC-2023-12, F00513, Smakaj Defence, *Smakaj Pre-Trial Brief in accordance with Rule 95(5)* ("Smakaj Pre-Trial Brief"), 19 October 2025, confidential, paras 10-11; a public redacted version was submitted on 27 January 2026, F00513/RED.

<sup>43</sup> Smakaj Pre-Trial Brief, paras 10-11.

## V. CLASSIFICATION

22. Having reviewed the filing, the Single Trial Judge orders the Registry to reclassify as public the SPO Reply (F00686).<sup>44</sup>

## VI. DISPOSITION

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

- a. **GRANTS** the Request and **ADOPTS** the deadlines and verification protocol set out in paragraph 20 of the present decision for submitting challenges to the accuracy of the Transcripts; and
- b. **ORDERS** the Registry to reclassify filing F00686 as public.



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**Judge Christopher Gosnell**  
**Single Trial Judge**

Dated this Thursday, 29 January 2026

At The Hague, the Netherlands.

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<sup>44</sup> Rules 82(5).