



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2023-12  
Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj,  
Isni Kilaj, Fadil Fazliu, and Hajredin Kuçi

**Before:** Single Trial Judge  
Judge Christopher Gosnell

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 28 January 2026

**Language:** English

**Classification:** Public

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**Public redacted version of "Prosecution reply to 'Joint Defence response to  
Prosecution request for amendment of the Exhibit List'"**

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## I. INTRODUCTION

1. The Response<sup>1</sup> objects to the addition of the Contested Material<sup>2</sup> to the Exhibit List by prematurely raising admissibility arguments and advancing unpersuasive notice arguments that are unsupported by directly relevant precedent before the Kosovo Specialist Chambers ('KSC'). The Single Trial Judge ('STJ') should grant the Request.<sup>3</sup>

## II. SUBMISSIONS

2. The Response opposes<sup>4</sup> the Request by advancing premature arguments pertaining to the Contested Material's relevance and purported expansion of the scope of the charges.<sup>5</sup> As underscored by the STJ, such issues are 'more suitable for consideration of admissibility or weight' rather than in deciding whether to grant leave to amend an exhibit list.<sup>6</sup> What must be adjudicated is simply the following: whether good cause has been shown upon timely notice to add the Contested Material to the Exhibit List.<sup>7</sup> This has clearly been met.

3. First, the Response takes issue with the Contested Material predominately on purported lack of notice. This is unfounded. The Contested Material falls squarely within the confines of this case and is directly relevant to the charged conduct. As

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<sup>1</sup> Joint Defence response to Prosecution request for amendment of the Exhibit List, KSC-BC-2023-12/F00697, 26 January 2026, Confidential ('Response').

<sup>2</sup> The Response objects to the addition of the following material: [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]); Item [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]) ('Contested Material'). See Response, KSC-BC-2023-12/F00697, paras 8, 13, 16, 18, 22.

<sup>3</sup> Prosecution request for amendment of the exhibit list, KSC-BC-2023-12/F00676, 16 January 2026, Confidential ('Request').

<sup>4</sup> The SPO notes that the Response 'takes no position' with regard to the inclusion of [REDACTED] (original: [REDACTED]) and items related to Redacted File [REDACTED]. Response, KSC-BC-2023-12/F00697, paras 21, 31.

<sup>5</sup> See generally Response, KSC-BC-2023-12/F00697.

<sup>6</sup> Decision on "Prosecution Request for Rule 102(1)(b) Disclosure and Amendment of the Exhibit List", KSC-BC-2023-12/F00678, 19 January 2026 ('Decision F00678'), para.14. See also *Specialist Prosecutor v. Thaçi et al.*, Public Redacted Version of Decision on Prosecution Request to Amend the Exhibit List, KSC-BC-2020-06/F01995/RED, 8 December 2023, para.26 (underscoring that a Panel 'need not assess whether the proposed item is admissible' but instead assesses whether 'the proposed item is *prima facie* relevant and of sufficient importance to justify the late addition').

<sup>7</sup> Decision F00678, KSC-BC-2023-12/F00678, paras 9, 13 (noting that in assessing timely notice and good cause, pertinent considerations include *prima facie* relevance, probative value, and prejudice).

underscored in the Request, the Contested Material pertains to, *inter alia*, THAÇI's pattern of obstructive conduct,<sup>8</sup> KILAJ's knowledge of the protected status of relevant witnesses,<sup>9</sup> and KILAJ's possession and dissemination of confidential witness information related to this case.<sup>10</sup> Such matters are clearly and patently within the scope of the SPO's case and charged conduct.<sup>11</sup>

4. Furthermore, contrary to the Response's submissions,<sup>12</sup> the fact that material falls outside of the indictment period or charges does not warrant its exclusion at this stage, nor even at later stages in these proceedings.<sup>13</sup> Evidence pertaining to uncharged acts and conduct of an accused may be admissible to show, *inter alia*, a deliberate pattern of conduct, to provide context, to establish elements of the charged conduct, establish state of mind, or a contextual element of an offence.<sup>14</sup>

5. Second, the Request is timely and is supported by good cause. It bears repeating that the Contested Material exclusively originates from judicially-authorized investigative activity or judicially-ordered tasks conducted by external parties outside

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<sup>8</sup> [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]). *See also* Request, KSC-BC-2023-12/F00676, paras 10-11, 19.

<sup>9</sup> [REDACTED] (original: [REDACTED]); Item [REDACTED] (original: [REDACTED]). *See also* Request, KSC-BC-2023-12/F00676, paras 10-11, 14-15.

<sup>10</sup> [REDACTED] (original: [REDACTED]); [REDACTED] (original: [REDACTED]); Item [REDACTED] (original: [REDACTED]). *See also* Request, KSC-BC-2023-12/F00676, paras 14-15.

<sup>11</sup> The SPO notes that similar arguments pertaining to lack of notice pertaining to one item in the Contested Material, or [REDACTED] (original: [REDACTED]), have previously been raised by the Thaçi Defence. *See* Confidential Redacted Version of Thaçi Defence Response to Prosecution request for second EFC follow-up (F00545), KSC-BC-2023-12/F00561/CONF/RED, 24 November 2025 (original filed on 20 November 2025), Confidential, paras 34-38. The SPO incorporates by reference its prior submissions on the matter (*see* Prosecution reply to 'Thaçi Defence Response to Prosecution request for second EFC follow-up', KSC-BC-2023-12/F00576, 27 November 2025, Confidential, paras 2-5).

<sup>12</sup> *See e.g.* Response, KSC-BC-2023-12/F00697, paras 18, 22, 26-29.

<sup>13</sup> *Specialist Prosecutor v. Thaçi et al.*, KSC-BC-2020-06/F02489/RED, Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence of Witnesses W03871, W04735, and W04868 Pursuant to Rule 154 and Related Requests, 13 August 2024, ('Decision F02489'), paras 45, 49 (granting admission of witness statements that included allegations falling outside of the temporal scope of the indictment).

<sup>14</sup> Decision F02489, KSC-BC-2020-06/F02489/RED, para.45; *see also Specialist Prosecutor v. Thaçi et al.*, Public Redacted Version of Decision on Prosecution Motion for Admission of Documents, KSC-BC-2020-06/F03214/RED, 25 July 2025, para.39.

of the SPO's control and was promptly provided to the Defence well before the start of trial.<sup>15</sup>

6. As the Contested Material is *prima facie* relevant to the charges, was available to the Defence at least two months before the start of trial,<sup>16</sup> and no undue prejudice can be shown due to its addition to the Exhibit List at this time, the STJ should grant the Request.

### III. CLASSIFICATION

7. This filing is confidential pursuant to Rule 82(3) in order to protect certain sensitive information contained herein. A public redacted version will be filed.

**Word count: 1055**



**Kimberly P. West**

**Specialist Prosecutor**

Wednesday, 28 January 2026

At The Hague, the Netherlands

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<sup>15</sup> Request, KSC-BC-2023-12/F00676, paras 3-5; *see similarly* Decision F00678, KSC-BC-2023-12/F00678, para.14.

<sup>16</sup> Request, KSC-BC-2023-12/F00676, para.3.