



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: 4 February 2026

Language: English

Classification: Public

Public redacted version of 'Prosecution request for amendment of the exhibit list'

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I. INTRODUCTION

1. Pursuant to Articles 21(6), 37 and 40 of the Law¹ and Rule 118(2) of the Rules,² the Specialist Prosecutor's Office ('SPO') respectfully requests leave to amend its Exhibit List³ to include five recently-received and processed inculpatory items, all of which have already been disclosed pursuant to Rule 102(1)(b) (the 'KUÇI-Related Items').

II. SUBMISSIONS

2. Rule 118(2) foresees the possibility of adding material to an exhibit list upon timely notice and a showing of good cause,⁴ and the addition of exhibits at the pre-trial stage is generally treated with flexibility.⁵ There is good cause for Items' addition to the Exhibit List. Specifically, the KUÇI-Related Items are: (i) relevant and probative of the charges in the Indictment; (ii) limited in scope, consisting of 30 total pages; and (iii) only recently-obtained via the Independent Counsel ('IC'), and then promptly

¹ Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ('KSC'), KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

³ The SPO's list of exhibits ('Exhibit List') was originally filed in conjunction with the pre-trial brief on 19 September 2025 (see Annex 4 to Corrected Version of "Prosecution submission of pre-trial brief, witness and exhibit list", KSC-BC-2023-12/F00459/COR/A04, 6 October 2025 [Original filed on 19 September 2025], Confidential). The Exhibit List was subsequently amended on 21 and 28 January 2026, respectively (see: Prosecution submission of amended exhibit list, KSC-BC-2023-12/F00685, 21 January 2026; Prosecution submission of amended exhibit list, KSC-BC-2023-12/F00702, 28 January 2026).

⁴ See: Rule 118(2); Decision on "Prosecution Request for Rule 102(1)(b) Disclosure & Amendments of the Exhibit List", KSC-BC-2023-12/F00678, 19 January 2026 ('Decision F00678'), para.9. See also Decision F00678, KSC-BC-2023-12/F00678, para.13 (considerations relevant to timeliness and good cause include whether the proposed evidence is *prima facie* relevant and probative, the complexity of the case, ongoing investigations, and translation of material).

⁵ See e.g. *Specialist Prosecutor v. Hashim Thaçi et al.*, Decision on Thaçi's Appeal against "Decision on Specialist Prosecutor's Request to Amend its Exhibit List and to Authorise Related Protective Measures", KSC-BC-2020-06/IA019/F00006, 12 July 2022, para.21.

analysed, processed, and disclosed.⁶ No undue prejudice is caused to the Defence by the addition of this material to the Exhibit List.⁷ Each Item is discussed in turn.

1. [REDACTED]

3. **Item** [REDACTED] consists of 14 pages of text messages selected by the SPO from KUÇI's March Phone, in the period between [REDACTED]. These messages total approximately 1,500 words. The messages are the relevant portions of the broader set of non-tendered IC-extracted Category F Records from the KUÇI March Phone consisting of 274 pages in total⁸ which – pursuant to [REDACTED]⁹ – all Parties received via Legal Workflow on 19 December 2025.¹⁰ The complete set of Category F Records were also disclosed by the SPO pursuant to Rule 102(3) on 20 January 2026,¹¹ including English translations as a courtesy. The SPO, on 22 January 2026, disclosed pursuant to Rule 102(1)(b) **Item** [REDACTED].¹²

4. The messages contained in [REDACTED] show KUÇI, *inter alia*: (i) on 4 September 2023 messaging his family about his and his son's activities in The Netherlands, including that he was 'in a session';¹³ (ii) confirming travel on

⁶ See: Annex 2 to Decision Transmitting the Case File to Single Trial Judge, KSC-BC-2023-12/F00544/A02, 12 November 2025, para.60 ('As various investigative activities in relation to Mr Taçi and Mr Kuçi remain ongoing, additional evidence may continue to be disclosed, including pursuant to Rule 102(1)(b) of the Rules.');

Decision Authorising Disclosure under Rule 102(1)(b) of the Rules, KSC-BC-2023-12/F00509, 17 October 2025; Decision F00678, KSC-BC-2023-12/F00678, para.14 (continued disclosures of Rule 102(1)(b) material 'were anticipated in light of ongoing Investigations', and 'addition of such items to the exhibit list could be judicially authorised in accordance with the applicable standards...').

⁷ See Decision F00678, KSC-BC-2023-12/F00678, 19 January 2026, para.15 ('Whether the addition of these items causes undue prejudice to the Defence includes an assessment of: (i) the amount of material concerned; (ii) the stage of the proceedings; (iii) whether the material presents any new aspects of the SPO's case; 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.').

⁸ The original timeframe of the Category F Records from which this subset was extracted is [REDACTED]. In addition to this subset, Category F Records on the March Phone also include the periods of: (i) [REDACTED]; (ii) [REDACTED]; and (iii) [REDACTED].

⁹ [REDACTED].

¹⁰ Independent Counsel Transmission of Material pursuant to Order F00627, KSC-BC-2023-12/F00638, 19 December 2025, Confidential ('F00638').

¹¹ See Disclosure Package #99.

¹² See Disclosure Package #100.

¹³ [REDACTED], pp.[REDACTED].

5 September and his arrival at the Kosovo airport at approximately 12:11 a.m. on 6 September 2023;¹⁴ and (iii) messaging with his family during 5 and 6 September indicating that he would be picked up from the Kosovo airport by a third party, while his son would be collected by his wife.¹⁵

5. This material is relevant to and corroborative of parts of 3 September Visit transcript central to the contempt charges arising from that visit, as well as to THAÇI's charged pattern of obstructive conduct. More specifically, these text exchanges corroborate and provide context to THAÇI's urgent witness interference instructions issued to KUÇI, including details as to: (i) KUÇI's planned return to Kosovo; and (ii) KUÇI's expressed agreement to implement the instructions upon his return.¹⁶ That KUÇI's visit to THAÇI on 3 September is an Agreed Fact¹⁷ not does negate the messages' relevance; to the contrary, the messages support the SPO's allegation that during this agreed visit, THAÇI urgently directed KUÇI to arrange to meet (directly or indirectly) with at least one targeted witness immediately upon KUÇI's return to Kosovo, and that KUÇI agreed to do so. Further, several of the messages contained within [REDACTED] also correspond to the content of the tendered transcript of the 3 September Visit, the accuracy of which the Defence has put at issue, making the text messages relevant to corroborate and reinforce the evidence contained in the visit transcript.¹⁸

2. Items [REDACTED] and [REDACTED]

¹⁴ [REDACTED], pp.[REDACTED], [REDACTED]. See Prosecution notification regarding investigative activities and request related to Independent Counsel's review, KSC-BC-2023-12/F00689, 23 January 2026, Confidential, fn.3 (explaining +UTC adjustment).

¹⁵ [REDACTED], pp.[REDACTED].

¹⁶ See Annex 1 to Public redacted version of 'Corrected Version of "Prosecution submission of pre-trial brief"', KSC-BC-2023-12/F00489/A01, 7 October 2025, paras 57-79.

¹⁷ See Public redacted version of 'ANNEX 1 to Notification of agreed facts', KSC-BC-2023-12/F00469/A01, KSC-BC-2032-12/F00523/A01, 23 October 2025, #81.

¹⁸ See e.g. Prosecution reply to 'Joint Defence Response to SPO motion for admission of material through the bar table', KSC-BC-2023-12/F00713, 30 January 2026, Confidential, paras 4, 11.

6. **These two Items consist of all non-privileged messages for (only) the date 12 April 2023 extracted by the IC from the: (i) KUÇI March Phone ([REDACTED]); and (ii) KUÇI December Phone ([REDACTED]).** The two exhibits combined total 9 pages, consisting of approximately 1,350 words of text messages sent to/from KUÇI's phones. These messages were provided to the SPO via the IC as part of her broader judicially-ordered Category F review of KUÇI's phones. The Parties received the March Phone messages and the December Phone messages on 21 November 2025¹⁹ and 16 January 2026,²⁰ respectively. The messages were promptly translated and necessarily analysed in conjunction with each other (*i.e.*, to ensure an appropriate contextual review), and then disclosed pursuant to Rule 102(1)(b) on 3 February 2026.²¹

7. The Items are relevant to show that KUÇI's 12 April 2023 message exchange with Witness 1²² – which forms the basis of Count 19 of the Indictment – is not present on either of KUÇI's seized phones, despite the presence of numerous other messages from 12 April 2023, which indicates that KUÇI may have deleted the 12 April 2023 exchange with Witness 1. The Items are thus relevant to the charged conduct and provide context to other evidence in the case.

3. Items [REDACTED] and [REDACTED]

8. **These two Items consist of all non-privileged messages for (only) the date 7 September 2023 extracted by the IC from the: (i) KUÇI March Phone ([REDACTED]); and (ii) KUÇI December Phone ([REDACTED]).** The two exhibits combined total 7 pages consisting of less than 650 words of text messages sent to/from KUÇI's phones.

¹⁹ See Annex 3 to Independent Counsel Transmission of Material pursuant to Order F00532, KSC-BC-2023-12/F00556/A03, 19 November 2025, Strictly Confidential and *Ex Parte* (reclassified as confidential, with *ex parte* status being lifted on 21 November 2025).

²⁰ See Annex 3 to Independent Counsel Transmission of Material pursuant to Order F00663, KSC-BC-2023-12/F00669/A03, 16 January 2025, Confidential.

²¹ See Disclosure Package #103.

²² See 125701-125703/125701-125703_added partial ET, as extracted from Witness 1's seized phone, admitted subject to the fulfilment of Witness 9's Rule 154 requirements in court (*see* Decision on the Specialist Prosecutor's Motion for Admission of Evidence of Witnesses 7 and 9 pursuant to Rule 154, KSC-BC-2023-12/F00687, 22 January 2026, Confidential, para.21(b)).

The messages were provided to the SPO via the IC as part of the broader judicially-ordered Category F review of KUÇI's phones. The Parties received the March Phone messages and the December Phone messages on 19 December 2025²³ and 30 January 2026,²⁴ respectively. The messages were promptly translated and necessarily analysed in conjunction with each other (*i.e.*, to ensure an appropriate contextual review), and then disclosed pursuant to Rule 102(1)(b) on 3 February 2026.²⁵

9. The Items are relevant to show that KUÇI's 7 September 2023 message exchanges with Bashkim SMAKAJ²⁶ are not present on either of KUÇI's seized phones, despite the presence of numerous other messages from 7 September 2023, which indicates that KUÇI may have deleted his 7 September exchanges with SMAKAJ. The Items are relevant to other evidence in the case, including to show KUÇI's possible pattern of deleting communications with certain individuals, including also Witness 1 (as noted above).

4. Conclusion

10. In sum, there is good cause to add the relevant KUÇI-Related Items to the Exhibit List. Doing so will not cause prejudice to the Defence because: (i) the amount of material is small, limited in scope and relevant to the charges; (ii) the commencement of trial is more than three weeks away; (iii) no new aspects of the SPO's case are implicated; (iv) the Items have already been disclosed pursuant to Rule 102(1)(b) giving more than sufficient time to review them; and (v) there is no adverse impact on the right to be tried within a reasonable time.

III. CLASSIFICATION

²³ See Annex 1 to F00638, KSC-BC-2023-12/F00638/A01.

²⁴ See Annex 1 to Independent Counsel Transmission of Material pursuant to Order F00701, KSC-BC-2023-12/F00711/A01, 30 January 2025, Confidential.

²⁵ See Disclosure Package #103.

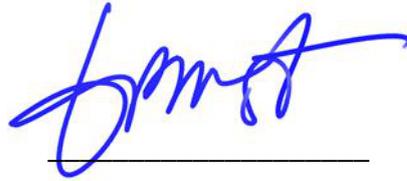
²⁶ See [REDACTED], as extracted from SMAKAJ's seized phone (*see* ANNEX 1 to Prosecution submission of amended exhibit list, KSC-BS-2023-12/F00702/A01, 28 January 2026, Confidential, Items 385-386).

11. 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.

IV. RELIEF REQUESTED

12. For the foregoing reasons, the SPO requests the Single Trial Judge's authorisation to amend its Exhibit List to add the KUÇI-Related Items.

Word count: 1,868



Kimberly P. West

Specialist Prosecutor

Wednesday, 4 February 2026

At The Hague, the Netherlands