



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: 12 March 2026

Language: English

Classification: Public

Decision on Smakaj Request for Redaction of Admitted Material

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THE SINGLE TRIAL JUDGE, pursuant to Article 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 79 and 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby issues this decision.

I. PROCEDURAL BACKGROUND

1. On 19 February 2026, the Defence for Bashkim Smakaj ("Smakaj Defence"), requested an order requiring the redaction of portions of transcripts and translations prepared by the Specialist Prosecutor's Office ("SPO") of audio-recordings of two visits by Bashkim Smakaj to Hashim Thaçi ("Mr Thaçi") at the Specialist Chambers' Detention Facilities, which the Smakaj Defence contends are inadmissible.²

2. On 20 February 2026, the SPO responded.³

3. On 26 February 2026, the Smakaj Defence replied.⁴

II. SUBMISSIONS

4. The Smakaj Defence contends that three categories of information contained in the SPO's Albanian transcription and English translation of audio-recordings of non-privileged visits to Mr Thaçi on 9 September 2023 and 7 October 2023 are inadmissible: (i) attribution of speaker identity; (ii) descriptions of non-verbal sounds, such as movements, actions or locations;

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, F00747, Smakaj Defence, *Smakaj Application for an Order Requiring the Redactions of Additional Material Inserted into Transcripts that is not Present on Audio Recordings* ("Request"), 19 February 2026, confidential, with Annexes 1-2, confidential.

³ KSC-BC-2023-12, F00750, Specialist Prosecutor, *Prosecution Response to "Smakaj Application for an Order Requiring the Redactions of Additional Material Inserted into Transcripts that is not Present on Audio Recordings"* ("Response"), 20 February 2026, confidential.

⁴ KSC-BC-2023-12, F00761, Smakaj Defence, *Smakaj Reply to Prosecution Response to "Smakaj Application for an Order Requiring the Redaction of Additional Material Inserted into Transcripts that is not Present on Audio Recordings"* ("Reply"), 26 February 2026, confidential.

and (iii) descriptions of tones of speakers.⁵ The Smakaj Defence argues that these are not matters of transcription or translation, and that no testimony has been heard from whomever added the information. Accordingly, these three categories of information have no probative value, or any such probative value is outweighed by its prejudicial effect.⁶

5. The SPO responds that the Request should be summarily dismissed as the transcriptions and translations have already been admitted in their entirety and that the Smakaj Defence has made no attempt to meet the statutory conditions for appeal or reconsideration.⁷

6. The Smakaj Defence replies that the SPO's position is purely procedural, that the transcriptions and translations had not yet been admitted as of the date of its Request since trial had not yet opened pursuant to Rule 124,⁸ and that the decision admitting the transcriptions and translations had left open the issue of the non-verbal content of those transcriptions and translations.⁹

III. DISCUSSION

7. The Single Trial Judge considers that a decision on the admission of the transcriptions and translations of the two Detention Centre audio recordings had already been rendered as of the date of the Request. The *Decision on the Specialist Prosecutor's Motion for Admission of Material through the Bar Table*, dated 12 February 2026, determined that the transcriptions and translations of these audio-recordings were to be admitted in their entirety.¹⁰ The admission of the

⁵ Request, paras 1, 10.

⁶ Request, paras 11-14, 16.

⁷ Response, paras 1-4.

⁸ Reply, paras 3-5, 10-12.

⁹ Reply, paras 6-9.

¹⁰ KSC-BC-2023-12, F00737, Single Trial Judge, *Decision on the Specialist Prosecutor's Motion for Admission of Material through the Bar Table* ("Bar Table Decision"), 12 February 2026, confidential, paras 51, 53-55, 88(b), referring to F00632, Specialist Prosecutor, *Annex 1 to Prosecution Motion for Admission of Material Through the Bar Table* ("Tendered Items"), 17 December 2025, confidential, items 43 and 45.

transcriptions and translations were not subject to prior verification by the Language Services Unit (“LSU”).¹¹ As stated in the Bar Table Decision, any arguments concerning “‘speculative’ descriptions of non-verbal sounds”, while potentially matters for “further inquiry and verification, [...] do not undermine the admissibility of the transcriptions and translations as a whole”.¹² Accordingly, the only avenue for requesting that portions of the transcriptions and translations be considered inadmissible, regardless of whether they had yet been formally registered as evidence in the case,¹³ is by way of reconsideration. Although the Request is not so framed, it will be addressed accordingly.

8. Rule 79 provides that “[i]n exceptional circumstances and where a clear error of reasoning has been demonstrated or where reconsideration is necessary to avoid an injustice,” a Panel may “reconsider its own decisions”.

9. The Single Trial Judge does not consider that the Smakaj Defence has demonstrated any clear error of reasoning, nor that reconsideration is necessary to avoid an injustice. The Bar Table Decision makes clear that the Single Trial Judge will make his own assessment of voice attribution based on the audio-recordings themselves and any relevant verbal indications.¹⁴ He has likewise made clear that the LSU’s verification of the SPO’s transcriptions and translations encompasses “only words spoken and may differentiate between speakers where possible for clarity but should otherwise avoid attributing identities to different speakers”.¹⁵ It is accordingly understood that the SPO’s attribution of speaker identities in the transcriptions and translations, as well as its descriptions of speaker tone or non-

¹¹ Bar Table Decision, paras 38, 55, 88(b).

¹² Bar Table Decision, para. 34.

¹³ Reply, para. 4.

¹⁴ See Bar Table Decision, para. 29 (“This does not mean, of course, that the attributions are, as such, accepted as accurate by the Single Trial Judge. The SPO’s attribution of identities to speakers is evidently subject to challenge and is to be ultimately determined by the Single Trial Judge based on the totality of available indicators”).

¹⁵ KSC-BC-2023-12, F00708, Single Trial Judge, *Decision on Prosecution Request for Transcription/Translation Verification Deadline*, 29 January 2026, public, para. 20(d).

verbal sounds heard on the audio, has no evidential value as such, and that no weight will be placed on these attributions or descriptions.

10. In these circumstances, the Smakaj Defence has not demonstrated any clear error of reasoning nor that reconsideration of the decision to admit the transcriptions and translations of the Bar Table Decision is necessary to avoid an injustice.

IV. DISPOSITION

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

- a) **REJECTS** the Request;
- b) **ORDERS** the Registry to reclassify as public the Request (F00747), without its Annexes, and the Response (F00750); and
- c) **ORDERS** the Smakaj Defence to either request the reclassification of the Reply (F00761) or submit a public redacted version **by Monday, 23 March 2026**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Thursday, 12 March 2026

At The Hague, the Netherlands.