



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: 11 March 2026

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Public redacted version of "Prosecution reply to 'Joint Defence Response to SPO
supplementary motion for admission of material through the bar table with
Confidential Annexes 1-2'"

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1. The Response,¹ which primarily makes submissions going to weight rather than admissibility, incorrectly asserts that the Tendered Items² are not relevant to this case. In fact, all Tendered Items are linked to the charges in the Indictment,³ either directly or indirectly,⁴ and the Motion should be granted.
2. Item 120⁵ is relevant to the Indictment because the text messages therein directly corroborate THAÇI's and KUÇI's discussions during the 3 September Visit, including KUÇI's travel plans back to Prishtinë/Priština and the importance to THAÇI of KUÇI beginning his obstructive work immediately upon landing in Kosovo. This material is squarely within the temporal scope of one of the contempt charges against THAÇI and KUÇI,⁶ which includes the period 'between at least 1 and 13 September 2023'.⁷
3. Items 123 and 124⁸ are relevant because they establish that certain messages between SMAKAJ and KUÇI, extracted from SMAKAJ's seized phone, were not found by the Independent Counsel on either the KUÇI March Phone or the KUÇI December Phone, thereby potentially indicating a pattern of intentional deletion of selected messages by KUÇI.⁹ Defence submissions on the meaning to be attached to these circumstances go to weight, rather than admissibility.

¹ Joint Defence Response to SPO supplementary motion for admission of material through the bar table with confidential Annexes 1-2, KSC-BC-2023-12/F00776, 5 March 2026, Confidential ('Response').

² See Prosecution supplementary motion for admission of material through the bar table, KSC-BC-2023-12/F00754, 23 February 2026, Confidential ('Motion'), para.1 defining the 'Tendered Items'.

³ Annex 2 to Submission of Amended Confirmed Indictment, KSC-BC-2023-12/F00264/A02, 16 April 2025 ('Indictment').

⁴ See for example *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*, Decision on the Prosecution Request for Admission of Items Through the Bar Table, KSC-BC-2020-07/F00334, 29 September 2021, Public, para.12 (as to evidence being relevant when it is directly or indirectly linked to the elements of the offence or the mode of the liability set out in the indictment, or to other material facts relevant to the parties' case).

⁵ See Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Item 120.

⁶ *Contra* Response, KSC-BC-2023-12/F00776, para.16.

⁷ See Indictment, KSC-BC-2023-12/F00264/A02, paras 46 (Count 9), 50 (Count 18).

⁸ See Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Items 123-124.

⁹ See also Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Items 121-122.

4. Item 117 – the [REDACTED] – is indisputably linked to the 22 September Visit,¹⁰ an event which the [REDACTED].¹¹ The document was printed in the KSC Detention Centre *three days before* the 22 September Visit, and includes content directly related to and corroborating THAÇI’s instruction during that visit that [REDACTED] should change his prior evidence.¹² Indeed, some of the material contained in Item 117 is explicitly referenced in the 22 September Visit transcript.¹³ The document is, as such, relevant, and Defence submissions as to the specific circumstances of its printing are appropriately considered in assessing weight upon a holistic review of the evidence.

5. Finally, the Defence’s assertion that Item 125 lacks sufficient indicia of authenticity is false. The Item bears KSC letterhead and contains explicit reference to the judicial decision (KSC-BC-2018-01/F00518)¹⁴ by which the Registry was ordered to provide the information contained within to the SPO. The authenticity of this Item is not reasonably subject to dispute and is in no material way different from any other item provided by the Registry and admitted in the [REDACTED].

6. In sum, the Response focuses on matters of weight and fails to engage with holdings of the [REDACTED], which apply with equal force here. Accordingly, the Response should be dismissed and the Motion granted.

¹⁰ *Contra* Response, KSC-BC-2023-12/F00776, paras 20-21.

¹¹ See [REDACTED].

¹² See: Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Item 117; Annex 1 to Prosecution motion for admission of material through the bar table with confidential Annexes, KSC-BC-2023/F00632/A01, 17 December 2025, Confidential, Item 88; 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, para.171.

¹³ Compare Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Item 117, p.SPOE00409316 (second excerpt in yellow highlights) with P00113_ET, p.45 l.12-13. Compare also with P00113_ET, p.23 l.12-13.

¹⁴ See Annex 1 to Motion, KSC-BC-2023-12/F00754/A01, Item 125.

7. This filing is confidential under Rule 82(4). A public redacted version will be filed.

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At The Hague, the Netherlands