



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:** 23 March 2026

**Language:** English

**Classification:** Public

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**Prosecution response to Thaçi request for disclosure concerning transcriptions**

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**Specialist Prosecutor's Office**  
Kimberly P. West

**Specialist Counsel for Hashim Thaçi**  
Sophie Menegon

**Specialist Counsel for Bashkim Smakaj**  
Jonathan Elystan Rees

**Specialist Counsel for Isni Kilaj**  
Iain Edwards

**Specialist Counsel for Fadil Fazliu**  
David A. Young

**Specialist Counsel for Hajredin Kuçi**  
Alexander Admiraal

## I. INTRODUCTION

1. The information sought in the Request<sup>1</sup> constitutes internal work product, and in any event is not relevant or exculpatory. Where transcription or translation is challenged, the appropriate avenue is through verification by LSU, in the ordinary course, which in this case is already regulated by the Verification Process<sup>2</sup> put in place by the Single Trial Judge.<sup>3</sup> The Request should be rejected accordingly.

## II. SUBMISSIONS

2. The Request seeks five broad categories of information related to the SPO Transcripts<sup>4</sup> which include, *inter alia*, dates of work performed by transcribers, their personal details, instructions given to them, their work history, and the internal process of transcribing and voice attribution.<sup>5</sup> It is a fishing expedition seeking irrelevant material which ignores the overarching legal framework of the Kosovo Specialist Chambers and the Verification Process tailored to this case.

### A. THE MATERIAL SOUGHT IS INTERNAL WORK PRODUCT

3. Details on the internal process and method by which the SPO Transcripts were produced is, by definition, work product prepared by the Specialist Prosecutor's Office ('SPO') 'in connection with the investigation or preparation of a case' which is 'not subject to disclosure or notification' under the Rules.<sup>6</sup> Non-disclosure of such work product includes internal communications and administrative information

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<sup>1</sup> Thaçi Defence Request for Disclosure of information concerning SPO Transcriptions, KSC-BC-2023-12/F00794, 16 March 2026 ('Request').

<sup>2</sup> See Decision on Prosecution Request for Transcription/Translation Verification Deadline, KSC-BC-2023-12/F00708, 29 January 2026 ('Verification Process').

<sup>3</sup> *Contra* Request, KSC-BC-2023-12/F00794, para.36.

<sup>4</sup> As defined in para.2 of the Request.

<sup>5</sup> Request, KSC-BC-2023-12/F00794, para.17.

<sup>6</sup> See Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'), Rule 106. All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified. The purpose of Rule 106 is to restrict disclosure of documents whose nature, purpose, and use are intended to remain strictly internal to the party.

relating to case preparation,<sup>7</sup> precisely the kind of material sought by the Request. As such, even were the information sought relevant – which as noted below, it is not – it would not be subject to disclosure.

4. The Request seeks to pierce the protection for internal work product by suggesting that the SPO Transcripts are ‘tainted’ by the purported priming of the SPO’s transcribers.<sup>8</sup> These wholly unfounded and speculative arguments were already considered and dismissed in the context of the First Bar Table Decision<sup>9</sup> and the Verification Process, and nothing has changed since.

5. The material sought falls under Rule 106, and the Request should be dismissed *in limine* as a result.

B. THE MATERIAL SOUGHT IS NOT RELEVANT AND THE VERIFICATION PROCESS GOVERNS

6. In any event, the disclosure sought by the Request is neither relevant nor exculpatory. Further, the reliability of the SPO Transcripts are subject to the Verification Process.

7. Simply put, there is no nexus between the personal details and qualifications of the transcribers and the manner in which they undertook their work, on one hand, and the content of the judicially authorised covertly recorded audio which is the foundation for the SPO Transcripts, on the other. Indeed, the verification of transcriptions and translations is a ‘purely objective exercise’ which ‘must be

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<sup>7</sup> See ICC, *Prosecutor v. Muthuara et al.*, Decision on the “Request for Reclassification in Respect of the ‘Prosecution’s Submission of the Updated Document Containing the Charges pursuant to Order ICC-01/09-02/11-450, Annex D’”, ICC-01/09-02/11-482, 12 September 2012, para.7; ICC, *Prosecutor v. Lubanga*, Redacted Decision on the prosecution’s disclosure obligations arising out of an issue concerning witness DRC-OTP-WWWW-0031, ICC-01/04-01/06-2656-Red, 20 January 2011, para.17; *Specialist Prosecutor v. Gucati & Haradinaj*, Public redacted version of Decision on the Prosecution Challenges to Disclosure of Items in the Updated Rule 102(3) Notice, KSC-BC-2020-07/F00413/RED, 3 November 2021, para.63.

<sup>8</sup> See for example Request, KSC-BC-2023-12/F00794, para.28.

<sup>9</sup> See Decision on the Specialist Prosecutor’s Motion for Admission of Material through the Bar Table, KSC-BC-2023-12/F00737, 12 February 2026, Confidential (‘First Bar Table Decision’), paras 30-39, 51-53.

undertaken on the basis of linguistic analysis only'.<sup>10</sup> The audio recordings exist, they have been disclosed, and they are available for comparison and verification. Creating anything other than good faith, accurate, transcripts could serve no conceivable purpose.

8. Despite the strained argument that the requested material is relevant 'to minimally assess the transcribers' qualifications',<sup>11</sup> such information has no bearing on THAÇI's ability to understand and challenge the content of the SPO Transcripts.<sup>12</sup> The audio recordings and the transcripts can be challenged and tested on their own merits, and require no recourse to the details of any professionals who produced the transcripts nor the internal processes associated therewith.<sup>13</sup> THAÇI is able to analyse and challenge them independent of the material sought, especially as he participated in all relevant visits. Further, the assertion that the material sought is exculpatory<sup>14</sup> is entirely unsubstantiated. What would prove exculpatory in this context is if the audio recordings include content favourable to THAÇI – this avenue of inquiry is facilitated by the Verification Process.

9. The Verification Process – grounded in the Decision on Working Language<sup>15</sup> – recalls that 'translations provided by *qualified translators*, either within the LSU or by

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<sup>10</sup> See Verification Process, KSC-BC-2023-12/F00708, para.16; Decision on Joint Defence Request for Partial Reconsideration and Clarification of "Decision on Prosecution Request for Transcription/Translation Verification Deadline", KSC-BC-2023-12/F00745, 18 February 2026 ('Decision on Reconsideration Request'), para.17.

<sup>11</sup> Request, KSC-BC-2023-12/F00794, para.21.

<sup>12</sup> See similarly ICC, *Prosecutor v. Bemba et al.*, Decision on Mr Bemba's request for disclosure dated 5 February 2014, ICC-01/05-01/13-181, 12 February 2014, pp.4-5.

<sup>13</sup> The SPO did not concede the relevance of any of the requested information by previously providing general background information on its Transcribers. Rather, this information was provided in the context of potentially assisting 'LSU in assigning personnel to conduct the Requested Verification(s).' (see Public redacted version of 'Prosecution request for transcription/translation verification deadline', KSC-BC-2023-12/F00666/RED, 14 January 2026, para.8). This background information has no bearing outside the narrow procedural context leading up to the Verification Process.

<sup>14</sup> Request, KSC-BC-2023-12/F00794, paras 39-44.

<sup>15</sup> Decision on Working Language, KSC-BC-2023-12/F00076, 11 December 2024 ('Decision on Working Language'). Notably, '[n]o party appealed the Decision on Working Language, nor sought its reconsideration' (see Verification Process, KSC-BC-2023-12/F00708, para.14).

the SPO language services, *are preferred*,<sup>16</sup> and underscores that ‘*any “disagreement or controversy” regarding the accuracy of translations, which includes any errors in the process of the transcriptions of audio and its subsequent translations, is to be resolved by resort to the LSU.*’<sup>17</sup> Accordingly, the Verification Process is the appropriate means to pursue any *bona fide* challenges to the reliability of the SPO Transcripts.<sup>18</sup>

10. Rather than pursuing this wholly speculative fishing expedition, the appropriate recourse for any challenges to the reliability of the SPO Transcripts, is, as outlined in the First Bar Table Decision, for THAÇI to specify any purported mistakes and refer them to LSU.<sup>19</sup> This is precisely what is called for by the Verification Process, yet the Request (again)<sup>20</sup> seeks to subvert this approach which was tailored for the circumstances of this case, consistent with relevant prior precedent.

11. THAÇI’s sweeping verification requests to date – including nearly every citation to the transcripts in the SPO’s pre-trial brief – mean that most, if not all, contested transcript passages will have been verified (and in many cases corrected) by an LSU transcriber, rather than the SPO ones who are the subject of this Request. If no verification request is submitted, it means the accuracy of the particular transcript portion is unchallenged. In either scenario, the information sought about SPO transcribers, and internal processes, is not relevant.

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<sup>16</sup> Verification Process, KSC-BC-2023-12/F00708, para.11 (emphasis added).

<sup>17</sup> Verification Process, KSC-BC-2023-12/F00708, para.14 (emphasis added).

<sup>18</sup> Importantly, this process is driven by ‘a neutral and specialised arbiter – the LSU’ and does not violate the right to silence of the Accused (*see* Verification Process, KSC-BC-2023-12/F00708, paras 15-16; Decision on Reconsideration Request, KSC-BC-2023-12/F00745, para.17).

<sup>19</sup> First Bar Table Decision, KSC-BC-2023-12/F00737, paras 35-36.

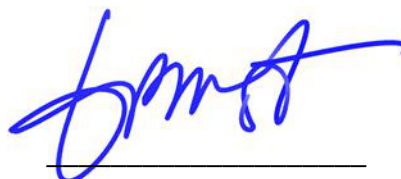
<sup>20</sup> *See* Joint Defence Request for partial reconsideration and clarification of “Decision on Prosecution Request for Transcription/Translation Verification Deadline”, KSC-BC-2023-12/F00722, 4 February 2026.

12. In short, the result of the Verification Process is itself the relief sought by the Request – that is, ‘to assess the extent to which the SPO Transcripts can be treated as likely to reflect the contents of the forensic audio.’<sup>21</sup>

### III. CONCLUSION

13. The Request seeks internal work product not subject to disclosure, and in any event the information sought is neither relevant nor exculpatory. The Request should be rejected, and the Verification Process should proceed in the ordinary course.

**Word count: 1,391**



**Kimberly P. West**  
**Specialist Prosecutor**

Monday, 23 March 2026

At The Hague, the Netherlands

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<sup>21</sup> Request, KSC-BC-2023-12/F00794, para.19.