



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:** 19 March 2026

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Prosecution Supplemental Motion for  
Judicial Notice of Facts of Common Knowledge**

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**THE SINGLE TRIAL JUDGE**, pursuant to Article 37(4) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rule 157(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,<sup>1</sup> hereby issues this decision.

## I. PROCEDURAL BACKGROUND

1. On 13 February 2026, the Single Trial Judge took judicial notice of the dates, existence and content of a number of records from the case of *The Specialist Prosecutor v. Hashim Thaçi et al.* ("Case 06") as facts of common knowledge, to the extent that they are accessible to the Parties in the present case.<sup>2</sup>

2. On 2 March 2026, the Specialist Prosecutor's Office ("SPO") filed a motion requesting that judicial notice be taken of four additional Case 06 records as facts of common knowledge ("Proposed Items").<sup>3</sup> On 4 March 2026, the SPO filed an addendum to the SPO Motion, providing Legal Workflow disclosure information relevant to the Proposed Items.<sup>4</sup>

3. On 11 March 2026, the Defence for Hashim Thaçi ("Mr Thaçi" and "Thaçi Defence") responded to the SPO Motion.<sup>5</sup> On 13 March 2026, the SPO replied.<sup>6</sup>

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<sup>1</sup> All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules.

<sup>2</sup> KSC-BC-2023-12, F00740, Single Trial Judge, *Decision on Prosecution Motion for Judicial Notice of Facts of Common Knowledge (F00629)* ("Judicial Notice Decision"), 13 February 2026, public, para. 33(d), with Annex 1, confidential.

<sup>3</sup> KSC-BC-2023-12, F00769, Specialist Prosecutor, *Prosecution Supplemental Motion for Judicial Notice of Facts of Common Knowledge ("SPO Motion")*, 2 March 2026, confidential, with Annex 1 ("SPO Annex 1"), confidential (a public redacted version of the main filing was filed on 11 March 2026, F00769/RED).

<sup>4</sup> KSC-BC-2023-12, F00773, Specialist Prosecutor, *Prosecution Addendum to F00769 ("SPO Addendum")*, 4 March 2026, confidential, with Annex 1, confidential.

<sup>5</sup> KSC-BC-2023-12, F00788, Thaçi Defence, *Thaçi Defence Response to Prosecution Supplemental Motion for Judicial Notice of Facts of Common Knowledge ("Defence Response")*, 11 March 2026, confidential (a public redacted version was filed on 13 March 2026, F00788/RED).

<sup>6</sup> KSC-BC-2023-12, F00791, Specialist Prosecutor, *Prosecution Reply to 'Thaçi Defence Response to Prosecution Supplemental Motion for Judicial Notice of Facts of Common Knowledge' ("SPO Reply")*, 13 March 2026, confidential (a public redacted version was filed on 18 March 2026, F00791/RED).

## II. SUBMISSIONS

4. The SPO requests the Single Trial Judge to take judicial notice of four Case 06 records related to [REDACTED], which it submits are similar in nature and related to a statement of [REDACTED] disclosed in Case 06 that was judicially noticed in the Judicial Notice Decision.<sup>7</sup> The date and contents of the Proposed Items are said to be relevant to: “[REDACTED].”<sup>8</sup> Additionally, the SPO submits that the Proposed Items are referenced in the “[REDACTED]”, which was recently approved for addition to the SPO’s exhibit list,<sup>9</sup> and whose admission is requested from the bar table.<sup>10</sup> The SPO submits that it seeks judicial notice of the Proposed Items not for the truth or falsity of their content, but for the “fact that the content was submitted, presented, heard or filed in the Case 06 record, as well as its date, and the parties to whom the content was made accessible”.<sup>11</sup>

5. The Thaçi Defence opposes the SPO Motion, arguing that the Proposed Items are not suitable for judicial notice as facts of “common knowledge” and that the SPO has failed to demonstrate their relevance.<sup>12</sup> In particular, the Thaçi Defence argues that: the SPO has failed to identify any information contained in the Proposed Items that is reflected in any discussion between Mr Thaçi and his visitors;<sup>13</sup> Mr Thaçi is not alleged to have discussed [REDACTED] in any of the visits charged in the Indictment;<sup>14</sup> the SPO has failed to show any connection between the “[REDACTED]” and the charges in the Indictment;<sup>15</sup> no evidence

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<sup>7</sup> SPO Motion, paras 1-2, 6; footnote 4.

<sup>8</sup> SPO Annex 1; see SPO Motion, para. 3.

<sup>9</sup> SPO Motion, para. 3, referring to [REDACTED] (“[REDACTED]”), contained in KSC-BC-2023-12, F00641/A01, Independent Counsel, *Annex 1 to Independent Counsel Transmission of Extracted Document Pursuant to Decision F00627*, 22 December 2025, confidential.

<sup>10</sup> KSC-BC-2023-12, F00754, Specialist Prosecutor, *Prosecution Supplementary Motion for Admission of Material Through the Bar Table*, 23 February 2026, confidential, with Annex 1, confidential (a public redacted version of the main filing was submitted on 25 February 2026, F00754/RED).

<sup>11</sup> SPO Motion, para. 4, referring to Judicial Notice Decision, para. 28.

<sup>12</sup> Defence Response, paras 1, 9-11, 14, 17, 28.

<sup>13</sup> Defence Response, para. 12.

<sup>14</sup> Defence Response, para. 13.

<sup>15</sup> Defence Response, para. 15.

shows that Mr Thaçi printed the document;<sup>16</sup> and the mere approval of the addition of a document to the SPO's exhibit list is not determinative of its relevance.<sup>17</sup> The Thaçi Defence also argues that Proposed Items 1 and 2 bear insufficient indicia of authenticity and that the SPO should not be permitted to circumvent this requirement under Rule 138 by seeking judicial notice of these items under Rule 157(1).<sup>18</sup> If judicial notice is taken, it should be limited to the existence, dates, and contents of the underlying documents, to the extent that they are accessible to the Parties in the present case, and not their truth-value.<sup>19</sup>

6. The SPO replies that the Defence Response fails to meaningfully engage with the findings set out in the Judicial Notice Decision.<sup>20</sup> It further argues that the Thaçi Defence's claim that the Proposed Items are unrelated to this case is directly contradicted by prior findings of the Single Trial Judge.<sup>21</sup> In addition, the SPO contends that the Thaçi Defence's assertion regarding the alleged lack of sufficient indicia of reliability is a misguided effort to bypass the foundation of the SPO Motion.<sup>22</sup> The SPO emphasizes that the purpose of the SPO Motion is to establish that the records pertain to the timing of the Case 06 Thaçi Defence's receipt of relevant [REDACTED] material, as disclosed and made available through Legal Workflow, as well as to the underlying contents of that disclosed material.<sup>23</sup>

### III. APPLICABLE LAW

7. Article 37(4) and Rule 157(1) prescribe that the Trial Panel shall not require proof of facts of common knowledge but shall take judicial notice thereof. The

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<sup>16</sup> Defence Response, para. 15.

<sup>17</sup> Defence Response, para. 16.

<sup>18</sup> Defence Response, paras 18-26.

<sup>19</sup> Defence Response, para. 27, referring to Judicial Notice Decision, para. 30.

<sup>20</sup> SPO Reply, para. 2.

<sup>21</sup> SPO Reply, para. 3, referring to Judicial Notice Decision, para. 28 and KSC-BC-2023-12, F00737, Single Trial Judge, *Decision on the Specialist Prosecutor's Motion for Admission of Material through the Bar Table* ("Decision on Admission of Material through the Bar Table"), 12 February 2026, confidential, para. 59.

<sup>22</sup> SPO Reply, para. 4.

<sup>23</sup> SPO Reply, para. 4.

Single Trial Judge adopts, and applies here, the legal standards arising from these provisions as set out in the Judicial Notice Decision.<sup>24</sup>

#### IV. DISCUSSION

8. The Single Trial Judge notes that all four Proposed Items sought for judicial notice in the SPO Motion are records from the Case 06 proceedings related to [REDACTED], which were disclosed via Legal Workflow.<sup>25</sup> The purpose of their admission, and by which their suitability for recognition must be assessed, is not to establish or substantiate the truthfulness of the assertions contained in them, but only “of the fact that the content was submitted, presented, heard or filed in the Case 06 record, as well as its date, and the parties to whom the content was made accessible”.<sup>26</sup>

9. The Proposed Items must satisfy the criteria for recognition under Rule 157(1), namely: (i) be relevant; (ii) not be subject to reasonable dispute; (iii) be sufficiently well-defined; and (iv) not include findings or characterisations that are essentially legal in relation to the proceedings in which they are to be noticed; and (v) not attest to the criminal responsibility of the accused.<sup>27</sup>

10. Although the Single Trial Judge considers that the Proposed Items satisfy conditions (ii) through (v), he does not consider that the SPO has adequately established their relevance. Relevance must be established not merely in relation to the uncharged visit, [REDACTED], but to one of the charged visits. The Single Trial Judge was “able to discern”<sup>28</sup> that relevance in respect of the transcript of the [REDACTED] based on the SPO’s suggestion that they show the use of certain “patterned instructions”, specifically enumerated in its Pre-

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<sup>24</sup> See Judicial Notice Decision, paras 8-10.

<sup>25</sup> See SPO Annex 1.

<sup>26</sup> Judicial Notice Decision, para. 28.

<sup>27</sup> See Judicial Notice Decision, para. 8.

<sup>28</sup> Decision on Admission of Material through the Bar Table, para. 59.

Trial Brief, that were also used during the charged visits.<sup>29</sup> The Single Trial Judge was likewise able to discern the connection between judicially noticed Item 84, especially given its length and comprehensiveness, and the purported use of patterned instructions.<sup>30</sup>

11. In contrast, the Single Trial Judge does not consider the relevance of the Proposed Items to any of the charged events to be self-evident. The mere fact that the same offence is alleged to have been committed during the uncharged event is insufficient. The SPO's submission that the items are relevant to "understanding the instructions provided by THAÇI during *inter alia* [REDACTED]"<sup>31</sup> fails to explain how the information is relevant to a charged event. More specific submissions are required to establish that the Proposed Items assist in understanding the use of patterned instructions, or some other distinct feature of the uncharged event, that is relevant to the charged conduct. In the absence of such an articulation, the relevance of the Proposed Items is not established.

12. Accordingly, the Single Trial Judge declines to take judicial notice of the dates, existence and content of the Proposed Items.

## V. DISPOSITION

13. For the above reasons, the Single Trial Judge hereby:
- a. **REJECTS** the SPO Motion; and
  - b. **ORDERS** the Registry to reclassify the SPO Addendum (core filing F00773) as public.

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<sup>29</sup> KSC-BC-2023-12, F00459/COR/A01, Specialist Prosecutor, *Annex 1 to Corrected Version of "Prosecution Submission of Pre-Trial Brief, Witness and Exhibit List*, 6 October 2025 (original date: 19 September 2025, confidential, paras 170-202 (a public redacted version was filed as F00489, Specialist Prosecutor, *Public Redacted Version of "Corrected Version of "Prosecution Submission of Pre-Trial Brief"*, 7 October 2025, public, with Annex 1, public).

<sup>30</sup> Judicial Notice Decision, paras 23-28; Annex 1 to Judicial Notice Decision, Item 84.

<sup>31</sup> SPO Annex 1.



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**Judge Christopher Gosnell**

**Single Trial Judge**

Dated this Thursday, 19 March 2026

At The Hague, the Netherlands.