



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-06

**The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi**

**Before:** Trial Panel II

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

**Registrar:** Fidelma Donlon

**Date:** 2 April 2026

**Language:** English

**Classification:** Public

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**Decision on the Defence Request for an Order to the SPO Pursuant to Rule 136**

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**Specialist Prosecutor**  
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**Counsel for Kadri Veseli**  
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**TRIAL PANEL II** (“Panel”), pursuant to Article 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 102(3), 103, 112, and 136 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 18 February 2026, after hearing closing statements from the Parties and participants, the Presiding Judge declared the case closed pursuant to Rule 136(1)<sup>1</sup> and reminded the Parties and participants that “no further submissions or evidence may be made to the Panel at this stage, unless in exceptional circumstances and on showing of good cause”.<sup>2</sup>
2. On 4 and 10 March 2026, the Specialist Prosecutor’s Office (“SPO”) disclosed Disclosure Packages 1850 and 1851, containing a total of five items pursuant to Rule 103.
3. On 11 March 2026, the SPO filed a supplemental Rule 102(3) notice (“Supplemental Rule 102 Notice”).<sup>3</sup>
4. On 13 March 2026, the Defence for Mr Hashim Thaçi (“Thaçi Defence” and “Mr Thaçi”, respectively) filed a request for an order to the SPO pursuant to Rule 136 (“Request”).<sup>4</sup>
5. On 16 March 2026, the Defence for Mr Rexhep Selimi (“Selimi Defence”) filed a joinder to the Request (“Joinder”).<sup>5</sup>

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<sup>1</sup> Transcript of Hearing, 18 February 2026, p. 29238, lines 23-24.

<sup>2</sup> Transcript of Hearing, 18 February 2026, p. 29238, lines 5-8.

<sup>3</sup> F03695, Specialist Prosecutor, *Prosecution Supplemental Rule 102(3) Notice*, 11 March 2026.

<sup>4</sup> F03696, Specialist Counsel, *Thaçi Defence Request for an Order to the SPO Pursuant to Rule 136*, 13 March 2026, with Annexes 1 and 2, confidential.

<sup>5</sup> F03701, Specialist Counsel, *Selimi Defence Joinder to Thaçi Request F03696*, 16 March 2026. Henceforth, the Panel will refer to the Thaçi Defence and the Selimi Defence collectively as Defence, unless stated otherwise.

6. On 25 March 2026, the SPO responded to the Request (“Response”).<sup>6</sup>
7. On 30 March 2026, the Thaçi Defence replied (“Reply”).<sup>7</sup>

## II. SUBMISSIONS

8. The Thaçi Defence requests that the Panel issue an order to the SPO not to make evidentiary disclosures to the Panel except in exceptional circumstances and on showing of good cause.<sup>8</sup> The Thaçi Defence asserts that good cause and exceptional circumstances justify the filing of the Request.<sup>9</sup> According to the Thaçi Defence, notwithstanding the provision under Rule 136 and the Panel’s instructions,<sup>10</sup> the SPO continues to submit evidence to the Panel, namely through Disclosure Packages 1850 and 1851, without demonstrating that exceptional circumstances require such disclosure.<sup>11</sup> In the Thaçi Defence’s view, contrary to the SPO’s response in *inter partes* communications,<sup>12</sup> the rationale in the Framework Decision<sup>13</sup> for granting access to the Pre-Trial Judge and the Panel to Rule 102 and Rule 103 disclosures no longer applies, given that the proceedings are now closed.<sup>14</sup>

9. The Selimi Defence supports and endorses the Request.<sup>15</sup>

10. The SPO responds that the Request is based on a flawed interpretation of Rule 136, disregards the application of Rule 112, misrepresents the jurisprudence

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<sup>6</sup> F03710, Specialist Prosecutor, *Prosecution Response to ‘Thaçi Defence Request for an Order to the SPO Pursuant to Rule 136’ (F03696)*, 25 March 2026.

<sup>7</sup> F03712, Specialist Counsel, *Thaçi Defence Reply to ‘Prosecution Response to Thaçi Defence Request for an Order to the SPO Pursuant to Rule 136 (F03696)’*, 30 March 2026.

<sup>8</sup> Request, paras 1, 14. *See also* Reply, para. 9.

<sup>9</sup> Request, para. 7.

<sup>10</sup> Request, paras 8-10.

<sup>11</sup> Request, para. 11.

<sup>12</sup> Annex 2 to the Request.

<sup>13</sup> F00099, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* (“Framework Decision”), 23 November 2020.

<sup>14</sup> Request, para. 12.

<sup>15</sup> Joinder, para. 1.

of the Specialist Chambers (“SC”), and should therefore be rejected.<sup>16</sup> Specifically, the SPO avers that it has ongoing disclosure obligations in respect of potentially exculpatory material under Rule 103 as well as material falling under Rule 102(3), and fulfilment of its disclosure obligations does not constitute submissions nor submission of evidence to the Panel within the meaning of Rule 136.<sup>17</sup> The SPO contends that the Panel continues to have a legitimate interest in the oversight of these disclosure obligations, through having visibility of that process by means of Legal Workflow.<sup>18</sup>

11. The Thaçi Defence replies that the SPO’s reliance on Rule 112 is misplaced,<sup>19</sup> and that the SPO fails to articulate any legitimate interest that would justify the Panel continuing to receive copies of disclosures post-trial.<sup>20</sup> Additionally, the Thaçi Defence argues that the SPO’s unilateral submission of evidence to the Panel at this stage violates the fair trial rights of Mr Thaçi, especially given that the SPO disclosed the same material, as that labelled as exculpatory in Disclosure Package 1851, as inculpatory in other proceedings before the SC.<sup>21</sup>

### III. APPLICABLE LAW

12. According to Rule 136(3), following the closing of the case, the Panel may not receive further submissions or hear evidence, unless exceptional circumstances require otherwise.

13. Pursuant to Rule 103, subject to Rules 107 and 108, the SPO shall immediately disclose to the Defence any information as soon as it is in his or her custody, control or actual knowledge, which may reasonably suggest the innocence or

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<sup>16</sup> Response, paras 1-3, 5.

<sup>17</sup> Request, paras 2-3.

<sup>18</sup> Response, para. 4.

<sup>19</sup> Reply, paras 1, 6-7.

<sup>20</sup> Reply, para. 8.

<sup>21</sup> Reply, paras 1-5.

mitigate the guilt of the accused or affect the credibility or reliability of the Specialist Prosecutor's evidence.

14. Pursuant to Rule 112, if either Party discovers additional evidentiary material or information that should have been disclosed earlier pursuant to the Rules, that Party shall immediately disclose such evidence or information to the opposing Party and the Panel. The Specialist Prosecutor shall disclose to the Defence any exculpatory information referred to in Rule 103 notwithstanding the closing of the case pursuant to Rule 136 and any subsequent appeal.

#### IV. DISCUSSION

15. Without prejudice to the question of its merit, the Panel is satisfied that good cause and exceptional circumstances justify the filing of the Request pursuant to Rule 136(2) insofar as the relief sought pertains to a recent disclosure that occurred after the close of the case pursuant to Rule 136.<sup>22</sup> The Panel also observes that, while the SPO disputes the substance of the Request, it does not challenge the filing of the Request under Rule 136(2).<sup>23</sup>

16. The Panel notes that Disclosure Package 1850 consists of three items, while Disclosure 1851 consists of one item and its Albanian translation.<sup>24</sup> Both disclosures were made after the closing of the case pursuant to Rule 103. Consistent with the practice all through these proceedings, the Panel was notified about the disclosures through Legal Workflow.

17. The Panel observes that the Defence does not dispute the Rule 103 nature of the material in Disclosure Package 1850, while, as set out below,<sup>25</sup> the Thaçi Defence appears to raise such issue regarding the material disclosed in

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<sup>22</sup> See *e.g.*, Request, paras 11-12.

<sup>23</sup> See *e.g.*, Response, para. 5.

<sup>24</sup> Disclosure Packages 1850-1851. See also Annex 1 to the Request.

<sup>25</sup> See *below* para. 19.

Disclosure Package 1851 for the first time in its Reply.<sup>26</sup> The Panel also understands that, in relation to the Supplemental Rule 102 Notice, the Defence merely raises a potential issue of disclosure to the Panel, should any of the Defence teams request any of the material in that notice.<sup>27</sup> The Panel considers that the crux of the Defence's argument is that given the closing of the case pursuant to Rule 136, consistent with that Rule, the SPO shall not make what it characterises as evidentiary disclosures to the Panel, like those in Disclosure Packages 1850 and 1851, or any disclosures potentially arising from the Supplemental Rule 102 Notice, except in exceptional circumstances and on showing of good case.

18. As a preliminary matter, the Panel notes that the Defence has not cited to any precedent or authority that would be applicable before the SC that would support the relief sought. Secondly, the Panel recalls that Rule 136 governs the presentation of further submissions or the *hearing of evidence* by the Panel following the closing of the case. Contrary to the Defence submissions,<sup>28</sup> the Panel finds that disclosure does not constitute submission of evidence to the Panel within the meaning of that Rule. Disclosure is communicated not for the purpose of admission but notice to the opposing party, participants and the Panel. The SC's legal framework provides for clear avenues for the submission of evidence and its admission on the record, which entails an assessment by the Panel of the admissibility requirements pursuant to the applicable Rules. The Panel is presently not seized with any request for the admission of evidence, let alone in relation to the material recently disclosed. Disclosure Packages 1850 and 1851 constitute nothing more than disclosures of material by the SPO consistent with its ongoing obligations under Rule 112. In this regard, the Panel considers that the case law relied upon by the Defence<sup>29</sup> is inapposite, as, in requiring that material

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<sup>26</sup> Reply, paras 4-5.

<sup>27</sup> Request, para. 5.

<sup>28</sup> Request, para. 10.

<sup>29</sup> Request, para. 10, footnote 7.

selected for admission during trial must have been disclosed to the opposing Party, the two cited decisions clearly distinguished between the submission of material to a panel as proposed evidence and the mere disclosure thereof.<sup>30</sup> For similar reasons, contrary to the Thaçi Defence's argument,<sup>31</sup> the Panel does not consider that a mere notification of a disclosure to the Panel constitutes making an impermissible contact with the Panel, on an *ex parte* basis. The Panel notes that its Judgment will be based exclusively on material tendered and admitted on the record and material otherwise disclosed will not affect the Panel's assessment of the record or evaluation of the evidence.

19. The Panel also does not see any merit in the Defence's argument that, with the closing of the case, the Panel's legitimate interest in the oversight of disclosure obligations, as stated in the Framework Decision, no longer applies.<sup>32</sup> The Panel notes that, while the Framework Decision explicitly provides for the Panel's oversight functions *vis-a-vis* the *evidence* exchanged between the Parties,<sup>33</sup> in light of the SPO's continuing disclosure obligations, it is in the Panel's legitimate interest to continue to oversee that any such material is disclosed in accordance with the Rules. The present Request is the very illustration of this legitimate interest. Should an issue arise from disclosure, the Panel must be able to assess it and render an informed decision on the matter. In that context, the Panel notes that Article 40(2) vests the Panel with the obligation to ensure that the fair trial rights of the Accused are protected and that proceedings are conducted in accordance with the Law and the Rules. The question of the compatibility of continued disclosure with those rights is one issue falling plainly within the scope of that provision. The Defence's argument is therefore dismissed.

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<sup>30</sup> See e.g. KSC-BC-2020-04, F00461, Panel, *Decision on the Submission and Admissibility of Non-oral Evidence*, 17 March 2023, paras 39-40; KSC-BC-2020-05, F00169, Panel, *Decision on the Submission and Admissibility of Evidence*, 25 August 2021, para. 34.

<sup>31</sup> Reply, para. 5, footnote 5.

<sup>32</sup> Request, para. 12; Reply, para. 8.

<sup>33</sup> Framework Decision, para. 49.

20. Lastly, regarding the Thaçi Defence's arguments concerning the fair trial rights of Mr Thaçi and the prejudice allegedly resulting from the disclosure of purportedly inculpatory, "dual nature" material in Disclosure Package 1851<sup>34</sup> as well as the Thaçi Defence's argument that the SPO is communicating "incriminatory suggestions" to the Panel during deliberations,<sup>35</sup> the Panel observes that the Thaçi Defence raises this argument for the first time in its Reply and, contrary to Rule 76, these arguments do not address any issue raised by the SPO in the Response. In any event, the Panel notes that Rule 139 clearly states which evidence the Panel shall consider for the purposes of the judgment and as stated by the Pre-Trial Judge, a panel of professional Judges may only assess evidence admitted before it at trial.<sup>36</sup> Whether it is, as claimed by the Defence, incriminatory or, as labelled by the SPO, exculpatory, is therefore irrelevant and the Defence has failed to show any prejudice that would require a relief. Therefore, these arguments are dismissed.

21. Furthermore, the Panel has no authority to verify the nature of material disclosed in another case.

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<sup>34</sup> Reply, paras 2-5.

<sup>35</sup> Reply, para. 5.

<sup>36</sup> Framework Decision, para. 49.

V. DISPOSITION

22. For the foregoing reasons, the Panel **REJECTS** the Request.

A handwritten signature in black ink, reading "Charles L. Smith, III". The signature is written in a cursive style with a horizontal line underneath the name.

**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Thursday, 2 April 2026

At The Hague, the Netherlands.