



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: 17 April 2026

Language: English

Classification: Confidential

**Decision on Thaçi Defence Request for Admission of Evidence of Witness
DHT-01 pursuant to Rule 153**

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THE SINGLE TRIAL JUDGE, pursuant to Article 40(6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 137(2), 138(1) and 153 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby issues this decision.

I. PROCEDURAL BACKGROUND

1. On 27 March 2026, the Defence for Hashim Thaçi ("Thaçi Defence") requested² the admission pursuant to Rule 153 of the statement of witness DHT-01³ and its associated exhibits,⁴ consisting of: (i) email correspondence between Witness DHT-01 and the Thaçi Defence; (ii) portions of audio sent to Witness DHT-01 by the Thaçi Defence for transcription and translation; (iii) transcriptions and translations produced by Witness DHT-01; and (iv) Witness DHT-01's *curriculum vitae*.⁵
2. On 30 March 2026, the Single Trial Judge varied the time limit for any response to the Request.⁶ On the same day, the Specialist Prosecutor's Office ("SPO") requested the Single Trial Judge to reinstate the statutory time limit for its response.⁷
3. On 31 March 2026, the Single Trial Judge granted the SPO Request.⁸
4. On 8 April 2026, the SPO responded to the Request.⁹

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, F00822, Thaçi Defence, *Thaçi Defence for Admission of Evidence of Witness DHT-01 pursuant to Rule 153* ("Request"), 27 March 2026, confidential, para. 1, with Annex 1, confidential.

³ DHT1201310-01314, Statement of Hysni Reçica (DHT-01) dated 27 March 2026 ("Statement").

⁴ Annex 1 to the Request, Items 2-10 ("Associated Exhibits").

⁵ KSC-BC-2023-12, F00822, Thaçi Defence, *Thaçi Defence for Admission of Evidence of Witness DHT-01 pursuant to Rule 153* ("Request"), 27 March 2026, confidential, para. 1, with Annex 1, confidential.

⁶ KSC-BC-2023-12, CRSPD275, *Email from Single Trial Judge to Parties re Variation of Time Limit – F00822*, 30 March 2026, confidential.

⁷ KSC-BC-2023-12, F00831, Specialist Prosecutor, *Prosecution Request for Extension of Time* ("SPO Request"), 30 March 2026, confidential, paras 1-4.

⁸ KSC-BC-2023-12, F00834, Single Trial Judge, *Decision on the Specialist Prosecutor's Request for Extension of Time*, 31 March 2026, public, paras 5-7.

⁹ KSC-BC-2023-12, F00849, Specialist Prosecutor, *Prosecution Response to 'Thaçi Defence Request for Admission of Evidence of Witness DHT-01 pursuant to Rule 153'* ("SPO Response"), 8 April 2026, confidential.

5. On 13 April 2026, the Thaçi Defence replied.¹⁰

II. SUBMISSIONS

6. The Thaçi Defence submits that “[t]he Proposed Evidence meets the requirements of Rules 138 and 153, is authentic, relevant, reliable and has probative value that is not outweighed by any prejudice” and that “[a]dmission of the Proposed Evidence is in the interests of justice and expedition.”¹¹ The Thaçi Defence submits that the Proposed Evidence “is relevant to the charges against Mr Thaçi, it is *prima facie* reliable, containing sufficient indicia of authenticity, it has probative value which is not outweighed by any prejudicial effect, and it meets Rule 153’s requirements for admission.”¹²

7. The SPO opposes the admission of the evidence arguing that the procedure for addressing any “disagreement or controversy regarding the accuracy of translations” is exhaustively regulated by the procedure set out in the Decision on Working Language¹³, which was then clarified and re-iterated in the Verification Decision¹⁴ and the Reconsideration Decision^{15, 16}. The SPO notes that almost all of the audio-recordings reviewed by Witness DHT-01 have already been submitted by the Thaçi Defence to the Language Services Unit (“LSU”) for verification in accordance with those procedures.¹⁷ The SPO asserts that Witness DHT-01’s “unverified assertion” that he could not transcribe certain excerpts of the audio-recordings because they were indiscernible “has no probative value”

¹⁰ KSC-BC-2023-12, F00854, Thaçi Defence, *Thaçi Defence Reply to SPO Response to Request for Admission of the Evidence of Witness DHT-01 pursuant to Rule 153* (“Reply”), 13 April 2026, confidential.

¹¹ Request, para. 1.

¹² Request, para. 26.

¹³ KSC-BC-2023-12, F00076, Pre-Trial Judge, [Decision on Working Language](#), 11 December 2024, public.

¹⁴ KSC-BC-2023-12, F00708, Single Trial Judge, [Decision on Prosecution Request for Transcription/Translation Verification Deadline](#) (“Verification Decision”), 29 January 2026, public.

¹⁵ KSC-BC-2023-12, F00745, Single Trial Judge, [Decision on Joint Defence Request for Partial Reconsideration and Clarification of “Decision on Prosecution Request for Transcription/Translation Verification Deadline”](#) (“Reconsideration Decision”), 18 February 2026, public; SPO Response, paras 2-5.

¹⁶ SPO Response, paras 1, 3, 18.

¹⁷ SPO Response, para. 8.

and is also contradicted by other exhibits tendered by the Thaçi Defence which are transcriptions of certain of the same audio segments from another translation firm.¹⁸

8. The Thaçi Defence replies that contrary to the SPO's assertion, the Single Trial Judge has not "prohibited the Defence from tendering evidence regarding the reliability of the SPO transcripts".¹⁹ The Thaçi Defence also contests the SPO argument that the "LSU 'verification' memos are binding conclusions of fact which cannot be challenged by a party or rejected by the Single Trial Judge", as this would "amount to an impermissible delegation to the LSU of a core judicial function with a central 'bearing on the Accused's guilt or innocence'".²⁰

III. APPLICABLE LAW

9. Pursuant to Rule 153(1), "the Panel may admit in lieu of oral testimony the written statement of a witness [...] which goes to proof of a matter other than the acts and conduct of the Accused as charged in the indictment."

10. Rule 153(2) requires any such statement to "be signed by the person who records and conducts the questioning and by the person who is questioned [...]. The record shall note the date, time and place of, and all persons present during the questioning."

11. Rule 153(1)(a) and (b) list, respectively, non-exhaustive factors in favour and against the admission of such a statement in written form.²¹ A panel, on the basis of

¹⁸ SPO Response, paras 13-15.

¹⁹ Reply, para. 3.

²⁰ Reply, para. 10.

²¹ KSC-BC-2020-04, F00556RED, Trial Panel I, [Public Redacted Version of Decision on the Specialist Prosecutor's Requests to Admit the Evidence of TW4-02 and TW4-04 under Rule 153 of the Rules](#) ("Shala R153 Decision"), 23 June 2023, public, para. 22.

these factors, “has discretion as to whether to admit the written statement or transcript *in lieu* of oral testimony.”²²

12. If such a statement is admitted, Rule 153(3) requires a panel to “decide whether to request the witness to appear for cross-examination. It may decide, providing reasons, that the requirements of a fair and expeditious trial exceptionally warrant the admission of the statement or transcript, in whole or in part, without cross-examination.”

13. Lastly, the admissibility criteria of Rule 138(1) – namely that the tendered evidence is “relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect” – also apply to evidence tendered pursuant to Rule 153.

IV. DISCUSSION

1. Rule 153 Requirements

14. Whether a statement falls within the scope of Rule 153 is “determined not by its form or the name given to it, but by its content, function, purpose and source.”²³ Such a statement is one that is “taken *in the context of* or *in connection with* legal proceedings to come within the scope of these Rules so as to distinguish such a statement from a statement made and recorded in a context unrelated to such proceedings.”²⁴ More specifically, it must be “given to a person or body authorised

²² [Shala R153 Decision](#), para. 22. See also KSC-BC-2020-06, F01904RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153](#), 3 November 2023, public, paras 12-13.

²³ KSC-BC-2020-07, F00334, Trial Panel II, [Decision on the Prosecution Request for Admission of Items Through the Bar Table](#) (“Gucati and Haradinaj BTM Decision”), 29 September 2021, public, para. 84, referencing STL, *In the matter of El Sayed*, CH/AC12011/01, Appeals Chamber, [Decision on Partial Appeal by Mr. El Sayed of Pre-Trial Judge’s Decision of 12 May 2011](#), 19 July 2011, paras 72-73, 85-86; *Prosecutor v Ayyash et al*, STL-11-01-T/TC, Trial Chamber, [Public Redacted Version Of “Decision On The Prosecution Application For Non-Disclosure Of Certain Statements Of Witnesses Pursuant To Rule 116” Dated 20 December 2012](#), 28 May 2013, paras 8, 14; ICC, *Prosecution v Ongwen*, Trial Chamber IX, [Decision on the Defence Request to Submit 470 items of Evidence](#), ICC-02/04-01/15-1670, 14 November 2019, para. 15.

²⁴ [Gucati and Haradinaj BTM Decision](#), para. 86.

to collect evidence for use in such proceedings”.²⁵ Before Trial Panel II, a statement submitted in the context of domestic legal proceedings fell within the scope of Rule 153,²⁶ whereas a transcript of testimony given to a legislative body did not.²⁷

15. The Single Trial Judge notes that the information recorded in Witness DHT-01’s declaration was elicited by the Thaçi Defence in connection with these very proceedings. The Single Trial Judge finds, accordingly, that Witness DHT-01’s declaration falls within the scope of Rule 153, which operates as *lex specialis* vis-à-vis Rule 138 in respect of this type of evidence, and thus, constitutes a statement.²⁸

16. The Statement cannot be understood without resort to the Associated Exhibits, which contain the source material on which the comments in the Statement are based. The Statement also directly quotes from, and comments upon the Associated Exhibits. The *curriculum vitae* is also essential to understand the witness’s background and qualifications. Accordingly, the Single Trial Judge considers that the Associated Exhibits form an indispensable and inseparable part of the Statement.

17. The mandatory requirement of Rule 153(1) is that the statement “goes to proof of a matter other than the acts and conduct of the Accused as charged in the indictment”. The Statement does not address the acts and conduct of the Accused as such, but rather concerns the quality of the segments of the Detention Centre

²⁵ [Gucati and Haradinaj BTM Decision](#), para. 86 referencing “ICC, *Prosecutor v Katanga and Ngudjolo Chui*, Trial Chamber II, [Decision on the Prosecutor’s Bar Table Motions](#), ICC-01/04-01/07-2635, 17 December 2010, para. 47. The Single Trial Judge notes that Trial Panel II held that even a statement given to non-parties to the proceedings is subject to Rules 153-155 (see KSC-BC-2020-06, F01631RED, Trial Panel II, [Public Redacted Version of Decision on Veseli Defence Request for Admission of Evidence Associated with W04748’s Testimony](#), 30 June 2023, public, para. 11; F01700RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence of W03724, W03832, W03880, W04368, W04566, and W04769 Pursuant to Rule 154](#), 7 November 2023, public, paras 31-36.”

²⁶ KSC-BC-2020-06, Trial Panel II, Transcript of Hearing, 23 September 2025, public, p. 27163, lines 20-25 to p. 27164, line 1.

²⁷ KSC-BC-2020-06, Trial Panel II, Transcript of Status Conference, 19 November 2025, public, p. 28308, lines 21-25 to p. 20309, lines 1-6.

²⁸ KSC-BC-2020-06, Trial Panel II, *Decision on Thaçi Appeal Against Decision on Admission of W04752’s Prior Statements*, 10 November 2025, public, para. 32.

audio recordings sent to Witness DHT-01 and the extent to which they are amenable to transcription. The SPO does not assert that the Statement concerns the acts and conduct of the Accused. Consequently, the Statement satisfies this condition of admissibility under Rule 153(1).

18. As to the formal requirements under Rule 153(2), the Statement is signed by Witness DHT-01 under the declaration that “[t]he contents of this statement are what I believe to be the truth.” Although the Statement is not signed by a person who “records and conducts the questioning,” it does not appear that there is any such person in this case, even though the Statement was solicited by the Taçi Defence. Accordingly, the formal requirements of Rule 153(2), to the extent applicable, are satisfied.

19. The Single Trial Judge does not consider that any of the expressly enumerated discretionary factors set out in Rule 153(1)(a) or (b) indicate one way or the other whether the Statement and the Associated Exhibits should be admitted. However, the Single Trial Judge considers that the technical and procedural nature of the Statement and Associated Exhibits broadly accords with the character of the expressly enumerated factors under Rule 153(1)(a), which weighs in favour of their admission.

2. Rule 138 Requirements

20. The SPO’s main objection to the admissibility of the Statement and the Associated Exhibits is their purported lack of relevance and probative value. The SPO argues that Witness DHT-01’s Statement and the Associated Exhibits fall outside of the transcript verification procedure set out in the Decision on Working Language. Indeed, the SPO argues that the Request circumvents that procedure as it “reflects a ‘disagreement or controversy regarding the accuracy of translations’, which must be resolved by LSU.”²⁹ The SPO argues that these

²⁹ SPO Response, para. 3.

procedures afford “the Defence the opportunity to offer, if it wishes, specific alternative transcription/translations to those offered by the SPO and to have these considered by the LSU *as part* of its review of the accuracy of the SPO transcriptions/translations.”³⁰ According to the SPO, at no point did the Thaçi Defence submit such alternative transcription/translations to the LSU.³¹ Further, the SPO submits that “the fact that there are differences between transcriptions made by various different transcribers does not in itself allow the court to draw any conclusions about the reliability of either one.”³²

21. The Thaçi Defence replies that the transcript verification procedures do not prevent the Defence from tendering evidence about the quality of the contested audio or the SPO transcripts thereof.³³ It adds that when admitting the SPO transcripts, the Single Trial Judge specifically stated that “[t]he Defence’s challenge to the reliability of the transcriptions and translations may be raised subsequent to their admission, including in accordance with the process of verification set out in the [First Verification Decision].”³⁴

22. The Single Trial Judge considers that Witness DHT-01’s alternative transcriptions would have been more useful to these proceedings if they had been presented to the LSU as part of the prescribed verification procedure. Indeed, the Reconsideration Decision expressly invites the Defence to present such materials to the LSU as part of the verification process.³⁵ Nevertheless, the Single Trial Judge cannot say that Witness DHT-01’s Statement and Associated

³⁰ SPO Response, para. 5. *See* Request, para. 20 (“The Proposed Evidence is relevant because it concerns the reliability of the transcripts of DC Audio which have been produced by the SPO.”).

³¹ SPO Response, para. 7.

³² SPO Response, para. 12.

³³ Reply, paras 5, 7.

³⁴ Reply, para. 8.

³⁵ [Reconsideration Decision](#), para. 36 (“affords the Defence the opportunity to offer, if it wishes, specific alternative transcriptions/translations to those offered by the SPO and to have these considered by the LSU *as part* of its review of the accuracy of the SPO transcriptions/translations.”) *See also* CRSPD240, where the Smakaj Defence team requested LSU verification on the basis of its own alternative transcription/translation in accordance with F00745.

Exhibits are categorically irrelevant, or completely devoid of any probative value. They purport to raise questions about the general reliability of the original SPO transcripts³⁶ which may have some relevance, for example, in respect of unverified portions of the SPO's transcriptions and translations.

23. The Single Trial Judge considers that the issues raised by the SPO go to the weight that can be accorded to the Statement and Associated Exhibits, rather than their admissibility. Any such weight will be assessed in light of the extensive review and verification of the SPO's transcriptions and translations that has now been undertaken by the LSU and the existence of the process itself. Furthermore, the probative value of Witness DHT-01's transcriptions and translations will necessarily be assessed against the substantial portions thereof that have been verified by the LSU. This will impact on the reliability of Witness DHT-01's general observations about indiscernibility, as well as the specific translations that he has provided.

24. The Single Trial Judge also notes that some portions of the audio segments that Witness DHT-01 has been asked to transcribe and translate correspond to segments of audios that are still pending the LSU verification. The Single Trial Judge does not consider that the Thaçi Defence is precluded from making a sufficiently motivated request, despite the expiry of the prescribed deadline, for Witness DHT-01's alternative transcriptions to be submitted to the LSU for its further consideration.

25. In short, the Single Trial Judge considers that the issues just described do not preclude admission of Witness DHT-01's Statement and Associated Exhibits, but will go to the weight that they can be accorded. Furthermore, the Single Trial Judge does not consider that the probative value of Witness DHT-01's Statement and

³⁶ Request, para. 20.

Associated Exhibits are outweighed by any prejudicial effect, given the very limited volume of material tendered.

26. Finally, regarding the criterion of authenticity and reliability, the Single Trial Judge finds that it is *prima facie* satisfied. The Statement and Associated Exhibits bear sufficient indications of authenticity, given the witness's signature, affirmation, and the facial characteristics of the Associated Exhibits, including the identification of the audio segments in the name of the files sent to the transcriber.

V. CONCLUSION

27. In light of the above, the Single Trial Judge finds that the Statement and Associated Exhibits are relevant, *prima facie* authentic, have *prima facie* probative value which is not outweighed by their prejudicial effect, and are therefore suitable for admission pursuant to Rules 153 and 138.

28. The Single Trial Judge does not consider that his assessment of the weight to be accorded to Witness DHT-01's Statement and Associated Exhibits will be substantially assisted by cross-examination.³⁷ Its weight can be adequately assessed based on the materials mentioned above, namely comparison with the LSU verifications to confirm (or otherwise) the validity of Witness DHT-01's criticism of the overall reliability of the SPO's transcriptions and translations.

³⁷ Rule 153(3).

VI. DISPOSITION

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

- a. **GRANTS** the Request;
- b. **ADMITS** into evidence the Statement and the Associated Exhibits pursuant to Rule 153;
- c. **INSTRUCTS** the Registrar to assign exhibit numbers to the Statement and the Associated Exhibits referred to in footnotes 3 and 4 of the present decision; and
- d. **ORDERS** the Thiçi Defence to file public redacted versions of its filings (F00822 and F00854) or request reclassification thereof by **Friday, 24 April 2026**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Friday, 17 April 2026

At The Hague, the Netherlands.