



**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:** 24 March 2026

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on the Specialist Prosecutor's  
Supplementary Motion for Admission of Material from the Bar Table**

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

## I. PROCEDURAL BACKGROUND

1. On 12 February 2026, the Single Trial Judge granted a request by the Specialist Prosecutor’s Office (“SPO”) for the admission of several categories of evidence “from the bar table” – that is, on the basis of written submissions alone.<sup>2</sup>
2. On 23 February 2026, the SPO filed a second request for the admission of material from the bar table.<sup>3</sup>
3. The Defence for Hashim Thaçi (“Mr Thaçi”), Bashkim Smakaj (“Mr Smakaj”), Isni Kilaj (“Mr Kilaj”) and Hajredin Kuçi (“Mr Kuçi”) (collectively “Defence” and “Accused”) jointly responded to the Second Request on 5 March 2026.<sup>4</sup> The Defence for Fadil Fazliu did not respond.

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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, F00737, Single Trial Judge, *Decision on the Specialist Prosecutor’s Motion for Admission of Material through the Bar Table* (“First Bar Table Decision”), 12 February 2026, confidential.

<sup>3</sup> KSC-BC-2023-12, F00754, Specialist Prosecutor, *Prosecution Supplementary Motion for Admission of Material Through the Bar Table* (“Second Request”), 23 February 2026, confidential, with Annex 1 (“SPO Annex”), confidential. A public redacted version of the main filing was submitted on 25 February 2026, F00754/RED.

<sup>4</sup> KSC-BC-2023-12, F00776, Defence, *Joint Defence Response to SPO Supplementary Motion for Admission of Material Through the Bar Table* (“Defence Response”), 5 March 2026, confidential, with Annexes 1-2, confidential. A public redacted version of the main filing was submitted on 6 March 2026, F00776/RED. The Single Trial Judge initially varied the time limits for the filing of responses to the Second Request and replies to Monday, 2 March 2026 at 16h00 and Wednesday, 4 March 2026 at 16h00, respectively (see KSC-BC-2023-12, CRSPD235, *Email from Single Trial Judge to Parties re Variation of Time Limits Regarding F00754*, 24 February 2026, confidential). Subsequently, pursuant to a request by the Defence for Mr Thaçi, the Single Trial Judge reinstated the statutory time limits for the filing of responses and replies (see KSC-BC-2023-12, CRSPD235, *Email from Single Trial Judge to Parties re Variation of Time Limits Regarding F00754*, 27 February 2026, confidential).

4. On 11 March 2026, the SPO replied.<sup>5</sup>

## II. SUBMISSIONS

5. The Second Request seeks the admission of 18 supplementary items (“Tendered Items”),<sup>6</sup> as set out in the SPO Annex.<sup>7</sup> The SPO submits that the tendered material merely supplements categories of evidence that have already been admitted *via* the bar table.<sup>8</sup> The SPO argues that the material was not previously available or has acquired renewed relevance in light of recently received and processed material and ongoing trial preparations.<sup>9</sup> The SPO asserts that the Tendered Items are relevant, probative and authentic, and their admission would not unduly prejudice the Accused.<sup>10</sup>

6. The Defence objects to the admission of selected items, as set out in Annex 1 to the Defence Response. These objections are set out in more detail and addressed in Section IV below.

## III. APPLICABLE LAW

7. The Single Trial Judge incorporates by reference and applies the law as set out in the First Bar Table Decision.<sup>11</sup>

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<sup>5</sup> KSC-BC-2023-12, F00787, Specialist Prosecutor, *Prosecution Reply to ‘Joint Defence Response to SPO Supplementary Motion for Admission of Material Through the Bar Table with Confidential Annexes 1-2’* (“SPO Reply”), 11 March 2026, confidential. A public redacted version was filed on 16 March 2026, F00787/RED. The Single Trial Judge varied the time limit for the filing of the reply to the Defence Response to Wednesday, 11 March 2026 (*see* KSC-BC-2023-12, CRSPD235, *Email from Single Trial Judge to Parties re Variation of Time Limits Regarding F00754*, 6 March 2026, confidential).

<sup>6</sup> Second Request, paras 1 and 12.

<sup>7</sup> The Tendered Items are set out in the SPO Annex starting with Item 109 to Item 126.

<sup>8</sup> Second Request, paras 2 and 4.

<sup>9</sup> Second Request, paras 1 and 5.

<sup>10</sup> Second Request, paras 6 and 10.

<sup>11</sup> First Bar Table Decision, paras 6-12.

#### IV. DISCUSSION

##### A. MATERIAL EXTRACTED FROM MR KUÇI'S SEIZED MOBILE PHONES AND RELATED FORENSIC REPORT

###### (a) Submissions

8. The SPO tenders eight items relating to material extracted from Mr Kuçi's seized mobile telephones (Tendered Items 109-111, 120-124). These items consist of: (i) messages and call logs between Mr Kuçi and a number associated with a witness in the case of *The Specialist Prosecutor v. Hashim Thaçi et al.* ("Case 06"), namely Witness 1, extracted from a telephone seized from Mr Kuçi in March 2024 ("March Phone");<sup>12</sup> (ii) an External Forensic Institute ("EFI") report describing the digital extraction process;<sup>13</sup> (iii) an EFI-produced set of "search results" providing technical information, as well as user data, concerning the March Phone;<sup>14</sup> (iv) sets of messages extracted from the March Phone purporting to show conduct by Mr Kuçi consistent with that agreed upon with Mr Thaçi during their meeting in the Detention Centre ("DC") on 3 September 2023;<sup>15</sup> and (v) sets of messages extracted from the March Phone and a telephone seized from Mr Kuçi in December 2024 ("December Phone") purporting to show the absence of messages to Witness 1 and to Mr Smakaj that had been found on the latter's telephones, implying that they had been deleted.<sup>16</sup> These digital items are said to have been extracted from devices seized pursuant to judicially authorised measures, produced and provided by the EFI, and/or provided by the appointed Independent Counsel ("IC") pursuant to judicial decisions.<sup>17</sup>

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<sup>12</sup> SPO Annex, Item 110.

<sup>13</sup> SPO Annex, Item 109.

<sup>14</sup> SPO Annex, Item 111.

<sup>15</sup> SPO Annex, Item 120.

<sup>16</sup> SPO Annex, Items 121-124.

<sup>17</sup> Second Request, para. 8.

9. The Defence asserts that these items “should be tendered through the person who seized or created them” – i.e. the technicians who performed the extraction of information – so that the Defence is able to challenge the “provenance and authenticity” of the information.<sup>18</sup> The Defence also challenges the relevance of the sets of messages in categories (i), (iii) and (iv)<sup>19</sup> or asserts that their prejudicial effect outweighs any probative value.<sup>20</sup>

(b) Determination

i. Preliminary Issue Concerning the Specificity of a Defence Objection

10. The Defence submits that it “maintains” certain objections that it asserts were rejected in the First Bar Table Decision.<sup>21</sup> The Defence characterises the objection that was rejected as being to the admission from the bar table of items “which were seized or created during the SPO investigation, and which should be tendered through the person who seized or created them such that the Defence may challenge their provenance and authenticity”.<sup>22</sup>

11. The Single Trial Judge notes, however, that the paragraphs of the First Bar Table Decision cited by the Defence for the proposition that its previous objection had been rejected do not concern the extraction of digital information from electronic devices. Instead, they concern: (i) the production of enhanced versions of audio-recordings (that were separately admitted, and whose admission had not been opposed); and (ii) a document purportedly seized from a vehicle during an investigative search, and photographs thereof.<sup>23</sup> Those items

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<sup>18</sup> Defence Response, paras 9 and 10; Annex 1 to the Defence Response, Items 109-111, 121-124.

<sup>19</sup> Defence Response, paras 11-18; Annex 1 to the Defence Response, Items 110, 120, 123-124. For the operative indictment *see* KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#) (“Indictment”), 16 April 2025, public.

<sup>20</sup> Annex 1 to the Defence Response, Items 121-122.

<sup>21</sup> Defence Response, paras 9-10.

<sup>22</sup> *See* Defence Response, para. 9.

<sup>23</sup> First Bar Table Decision, paras 52, 74-76.

were admitted not because testimony concerning the seizure or creation of information is *never* required (as the Defence seeks to characterise these rulings), but rather because there were independent indications of authenticity and probative value in respect of those items to meet the threshold for admissibility.<sup>24</sup>

12. Moreover, the Defence asserted no authenticity objection in respect of digital information extracted from electronic devices<sup>25</sup> in response to the first SPO request for the admission of material from the bar table.<sup>26</sup> For example, no objection was asserted in respect of item 70 – as referenced in the First Bar Table Motion – which is a digital extraction from a telephone seized from Witness 1.<sup>27</sup> That extraction contains messages purportedly sent by Mr Kuçi to Witness 1, as

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<sup>24</sup> First Bar Table Decision, paras 52 (“[T]he Single Trial Judge notes that: (i) each segment indicates the original audio-recording it corresponds to; (ii) the enhanced segments are tendered together with the original audio-recordings; (iii) both the original and the enhanced versions have corresponding transcriptions and translations; and (iv) the two versions as reflected in the English transcriptions do not, in fact, differ significantly. The Single Trial Judge considers these factors to be sufficient for the admissibility of the enhanced segments, even in the absence of any expert evidence concerning the production of these enhanced excerpts. This does not preclude the Defence from further challenging the authenticity or probative value of these enhanced audio segments. The Defence has ample opportunity to do so, [REDACTED]”); 75 (“[T]he Single Trial Judge does not consider that Items 84 and 85 are categorically inadmissible on the basis that they could be tendered through a witness, even in the face of the specific authenticity challenge that has been raised by the Defence. On the contrary, Items 84 and 85, based on the submissions received and in the context of the totality of the evidence to be proffered by the SPO, do meet the threshold for admission under Rule 138(1). In particular, the SPO asserts that extrinsic evidence, including through the testimony of Witness 8, can authenticate the origin of Item 84 and its connection to Mr. Smakaj. All that is required in respect of authenticity at the admissibility stage is that a ‘*prima facie* case of authenticity must be made out’, not ‘[a]bsolute proof’, let alone proffer of what might be considered the most direct or probative evidence”).

<sup>25</sup> KSC-BC-2023-12, F00688, Defence, *Joint Defence Response to SPO Motion for Admission of Material through the Bar Table* (“First Defence Response”), 23 January 2026, confidential, with Annexes 1-6, 8-10, confidential, and Annex 7, public. A public redacted version of the main filing was filed on 27 January 2026, F00688/RED.

<sup>26</sup> Referring to KSC-BC-2023-12, F00632, Specialist Prosecutor, *Prosecution Motion for Admission of Material through the Bar Table* (“First Bar Table Motion”), 17 December 2025, confidential, with Annex 1, confidential. A public redacted version of the main filing was submitted on 7 January 2026, F00632/RED.

<sup>27</sup> First Bar Table Decision, para. 63.

extracted from Witness 1's telephone. Those messages were admitted in the First Bar Table Decision.<sup>28</sup>

13. The Defence did object to some digital information extracted from electronic devices tendered in the First Bar Table Motion; however not on the basis that this was necessary for authentication, but rather because it fell within the scope of expert evidence that could be tendered only *via* Rule 149.<sup>29</sup> The First Bar Table Decision principally addresses this objection as articulated, finding that the Specialist Chambers' jurisprudence did not support the position that Rule 149 is the exclusive avenue by which reports that are the product of expertise can be deemed admissible. Accordingly, the First Bar Table Decision did not decide that testimony is never required to authenticate digital information extracted from electronic devices, but rather that the admissibility of any such material must be assessed depending on the particular features of the material tendered. To the extent that the Defence wishes to raise this type of objection in respect of any items tendered in the Second Request, it is required to do so by way of specifically articulated objections. The Single Trial Judge does not consider, given the context to these rulings in the First Bar Table Decision, that the Defence has been adequately specific or clear by merely stating that "it maintains these objections at this stage".<sup>30</sup> Nevertheless, the Single Trial Judge does understand the general principle being raised by the Defence, and addresses the issue as needed in assessing the admissibility of the Tendered Items.

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<sup>28</sup> First Bar Table Decision, para. 63.

<sup>29</sup> First Defence Response, paras 120-132 ("The SPO should be permitted to tender these reports only pursuant to Rule 149, making the excerpts in question available for Defence cross-examination").

<sup>30</sup> Defence Response, para. 10 ("Given that the Defence's ability to raise these matters on appeal depends on a timely objection being made during trial, the Defence notes that it maintains these objections at this stage").

ii. Determinations of Admissibility

14. The Defence purports to “maintain its position as set out in the First Defence Response” in respect of Item 109,<sup>31</sup> which the Single Trial Judge understands to mean that the document must be tendered as a witness statement pursuant to Rule 153.

15. A “written statement” subject to Rules 153-155 consists of a statement “given to a person or body authorised to collect evidence for use in such proceedings”.<sup>32</sup> ICTY jurisprudence has more specifically – and consistently – interpreted its corresponding Rule 92*bis* as applicable only to statements “*given to parties* for the purposes of litigation before the Tribunal”.<sup>33</sup> This is also implied by Rule 153(2), which presupposes that the statement involves a “person who records and conducts the questioning”.<sup>34</sup>

16. Item 109 was not given to a Party to these proceedings. Quite to the contrary, the SPO was initially prohibited<sup>35</sup> and then narrowly circumscribed<sup>36</sup> in the contacts that it was permitted to have with the EFI. Indeed, subsequent

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<sup>31</sup> Annex 1 to the Defence Response, Item 109.

<sup>32</sup> KSC-BC-2020-07, F00334, Trial Panel II, [Decision on the Prosecution Request for Admission of Items Through the Bar Table](#), 29 September 2021, public, para. 86.

<sup>33</sup> ICTY, *The Prosecutor v. Milan Milutinović et al.*, IT-05-87-T, Trial Chamber, [Decision on Evidence Tendered Through Sandra Mitchell and Frederick Abrahams](#), 1 September 2006, para. 15 (“If a hearsay declarant gives a statement to a non-party, the statement would not fall under Rule 92 *bis* because the declarant was not a potential witness for the purposes of the Rule”); *The Prosecutor v. Milan Milutinović et al.*, IT-05-87-T, Trial Chamber, [Decision on Lukić Defence Motions for Admission of Documents from Bar Table](#), 11 June 2008, paras 21-22 (holding that such statements are potentially admissible *via* the bar table).

<sup>34</sup> Rule 153(2) (“The statement shall be signed by the person who records and conducts the questioning and by the person who is questioned and his or her counsel”).

<sup>35</sup> KSC-BC-2021-12, INV/F00105, Single Judge, [Decision on Special Investigative Measures and Request for Assistance and Cooperation](#), 15 March 2024, confidential, with Annex 1, confidential, para. 35 (“The Single Judge further underscores, in terms of safeguards to be implemented, that the SPO will not have access to the Seized Phone or its contents, nor will it communicate with the [EFI] regarding the Request Operations, until further instruction from the Single Judge”). A public redacted version of the main filing was issued on 9 February 2026, [INV/F00105/RED](#).

<sup>36</sup> KSC-BC-2023-12, INV/F00132, Single Judge, [Decision on Request for Search and Seizure and Related Request](#), 8 May 2024, confidential, with Annex 1, confidential, paras 52 and 61(d). A public redacted version of the main filing was issued on 9 February 2026, [INV/F00132/RED](#).

to the process of digital extraction of designated SPO witness-related content, an Independent Counsel was instructed to review this material to ensure that no privileged material was accessed by the SPO.<sup>37</sup> The information for which Item 109 is relevant was only disclosed to the SPO after having been reviewed by the Independent Counsel for privilege and relevance, and even then disclosure only occurred upon order of the Pre-Trial Judge following a request by the SPO.<sup>38</sup> Item 109 was not sent to the SPO, but rather to the Registry, as ordered by the Single Judge. Accordingly, not only was the SPO not involved in eliciting or recording the information contained in Item 109, but the SPO's lack of involvement in the production of the report was a consequence of judicial orders concerning how the information should be processed and reviewed.

17. Nevertheless, the criteria of Rule 153, though not directly applicable, are useful in assessing whether Item 109 has characteristics warranting its admission, since it is, in substance, a statement prepared by a person after the events described. The Single Trial Judge notes that (i) the report does not concern the acts and conduct of the accused; (ii) it is signed by its apparent author who affirms by his signature that it was “prepared ... truthfully, complete and to the best of my understanding”; and (iii) the report itself is substantially corroborated by the materials referred to therein, which appear to be authentic in form. Furthermore, the Defence has not identified which, if any, portions of the report it seeks cross-examination upon or otherwise challenges. Based on these factors, Item 109 satisfies the requirement of possessing sufficient probative value, which is not outweighed by any prejudicial effect, and is otherwise relevant and authentic.

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<sup>37</sup> KSC-BC-2023-12, F00284, Pre-Trial Judge, *Decision Appointing Independent Counsel*, 7 May 2025, confidential, para. 37(k) (“The Parties shall not communicate, directly or indirectly, with the Independent Counsel”). A public redacted version was issued on 27 June 2025, [F00284/RED](#).

<sup>38</sup> KSC-BC-2023-12, F00368, Pre-Trial Judge, *Decision on Prosecution Request for Access to Material and Related Matters*, 9 July 2025, confidential, with Annex 1, confidential. A public redacted version of the main filing was issued on 11 November 2025, [F00368/RED](#).

18. Items 110-111 and 120-124 are extractions of digital material, metadata and content, produced by the EFI following the procedures explained in Item 109. These items are likewise considered sufficiently authentic in form and apparent origin to meet this requirement of Rule 138(1).

19. The Defence also challenges the relevance of Items 110, 120, 121, and 123<sup>39</sup>. In particular, it argues that the inferences suggested by the SPO (i) are “speculative and tenuous”,<sup>40</sup> (ii) advance arguments concerning “patterns” based on two events only,<sup>41</sup> (iii) concern communications between Mr Kuçi and Mr Smakaj which do not fall within the scope of the charges,<sup>42</sup> and (iv) are based on “speculative interpretation[s]”.<sup>43</sup>

20. The Single Trial Judge considers that these arguments go to the merits, rather than to admissibility of these items. Item 110 does provide indications of contacts between Mr Kuçi and Witness 1, which is directly relevant to the charges. Item 120 purportedly indicates conduct by Mr Kuçi consistent with his alleged agreement with Mr Thaçi to engage in contemptuous conduct during their meeting of 3 September 2023. Item 121 purportedly demonstrates consciousness of guilt, through alleged deletion of messages related to conduct falling within each of the two charges against Mr Kuçi. In respect of Item 123, which concerns alleged deletion of messages to Mr Smakaj, the absence of any specific charge of any co-perpetration between Mr Kuçi and Mr Smakaj does not negate the relevance of the purported inference of Mr Kuçi’s consciousness of guilt.

21. As to the Defence’s challenge to the records in Item 110 based on their partial redaction, the Single Trial Judge does not consider that these redactions

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<sup>39</sup> Defence Response, paras 11-15.

<sup>40</sup> Defence Response, para. 16.

<sup>41</sup> Defence Response, para. 15.

<sup>42</sup> Defence Response, para. 15.

<sup>43</sup> Defence Response, para. 17.

undermine the *prima facie* reliability of other messages. The Defence is of course entitled to renew this argument on the merits as it deems appropriate. The Single Trial Judge accepts the Defence submission that the content of the messages sent in 2024, that is subsequent to the temporal scope of the Indictment, appear to have no relevance to this case.<sup>44</sup> However, the corresponding WhatsApp number for those messages might have some potential relevance to matters within the Indictment period. Accordingly, the entire file is admitted.

22. Items 122 and 124 contain sets of messages extracted from a different telephone belonging to Mr Kuçi, namely the December Phone. As explained above in paragraph 20 in respect of Items 121 and 123, these Tendered Items are relevant as potentially indicative of Mr Kuçi's consciousness of guilt in respect of the two charges of contempt he faces.

23. In the light of the above, the Single Trial Judge admits, pursuant to Rule 138(1), Items 109-111 and 120-124 as they are relevant, authentic, and their probative value outweighs any prejudicial effect.

B. MATERIAL CONNECTED TO THE DOCUMENT SEIZED FROM MR SMAKAJ AND RELATED IC REPORT

24. In the absence of objections to the admission of Tendered Items 112-116 and any other indication that these items are inadmissible, and noting that Item 113 was previously admitted through Witness 9,<sup>45</sup> the Single Trial Judge admits Items 112, 114-116 pursuant to Rule 138(1).

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<sup>44</sup> Annex 1 to the Defence Response, Item 110.

<sup>45</sup> KSC-BC-2023-12, Transcript of Hearing, 5 March 2026, public, p. 728, line 3 to line 12.

C. MATERIAL RELATED TO MR THAÇI'S USE OF DETENTION CENTRE COMPUTER AND PRINTING SYSTEMS AND CONTEXTUAL MATERIAL

(a) Submissions

25. The SPO tenders five items relating to Mr Thaçi's use of DC computer and printing systems (Tendered Items 117-119 and 125-126). These items consist of: (i) a document purportedly printed at the DC three days prior to a non-charged visit, transmitted to the SPO by the IC pursuant to a judicial decision (with the associated translation) (Item 117);<sup>46</sup> (ii) two digital files of statements attributable to Witness 4 from Case 06 allegedly printed at the DC immediately prior to the 6 October 2023 visit (Items 118 and 119);<sup>47</sup> (iii) a Registry record regarding the technical information on the sole printer available to detainees at the DC, including Mr Thaçi (Item 125);<sup>48</sup> and (iv) an extraction of Legal Workflow metadata from Case 06, purportedly showing when specific materials, namely excerpts and corresponding translations of a book, were made available to the Accused (Item 126).<sup>49</sup>

(b) Determination

26. The SPO submits that Item 117 is relevant as it (i) assists in showing that [REDACTED] was targeted by Mr Thaçi for influence during a DC visit on 22 September 2023; (ii) shows that documents were printed to target Case 06 Witnesses 2 and 4; and (iii) shows Mr Thaçi's alleged role as leader and organiser of obstruction attempts.<sup>50</sup> The Defence argues that the SPO has failed to establish the relevance of Item 117 as it relates only to an uncharged DC visit, and that the SPO's own evidence otherwise shows that it was not printed by Mr Thaçi.<sup>51</sup>

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<sup>46</sup> SPO Annex, Item 117.

<sup>47</sup> SPO Annex, Items 118-119.

<sup>48</sup> SPO Annex, Item 125.

<sup>49</sup> SPO Annex, Item 126.

<sup>50</sup> Second Request, para. 7; SPO Annex, Item 117; SPO Reply, para. 4.

<sup>51</sup> Defence Response, paras 19-23; Annex 1 to the Defence Response, Item 117.

27. The Single Trial Judge considers that the document has sufficient *prima facie* relevance to be admitted. The recordings of the 22 September 2023 visits have been admitted on the basis that there may be aspects of this visit that are probative of conduct during the charged visits. The Single Trial Judge emphasises that this does not constitute an enlargement of the charges and that, ultimately, he will examine closely whether the alleged conduct on 22 September 2023 is genuinely probative of the charged conduct. The Defence’s submissions – particularly that the SPO’s own evidence shows that this document was not printed by Mr Thaçi – go to the merits rather than the admissibility of this document.

28. The Defence does not object to Item 118 “provided it is not tendered nor admitted for the truth of its content” and reiterates its substantive objection that the SPO’s own evidence otherwise shows that it was not printed by Mr Thaçi.<sup>52</sup> Although the SPO does not state clearly that Item 118 is not tendered for the truth of its content, the Single Trial Judge considers that this limitation is indispensable for its admission. As in respect of Item 117, the Defence’s submission that the SPO’s own evidence shows that this document was not printed by Mr Thaçi goes to the merits, rather than the admissibility of this document.

29. “No objection” is interposed by the Defence in respect of Item 119, except for the argument raised in respect of Items 117 and 118 – that the SPO’s own evidence shows that the document was not printed by Mr Thaçi.<sup>53</sup> This argument goes to the merits rather than the admissibility of the document.

30. The SPO argues that Item 125, which it says “was provided to the SPO by the Registry pursuant to Decision KSC-BC-2018-01/F00518” is relevant as it “includes technical information on the sole printer available for THAÇI (and other detainees) to print documents at the DC, including the printer manufacturer, model number,

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<sup>52</sup> Annex 1 to the Defence Response, Item 118.

<sup>53</sup> Annex 1 to the Defence Response, Item 119.

serial number, and date of installation within the DC".<sup>54</sup> The Defence objects that "forensic reports and items produced by forensic experts should be tendered through their source" and that the creator of this Tendered Item is not identified.<sup>55</sup>

31. The Single Trial Judge notes that the first two pages of this document appear to have been inserted into an evidence bag and sealed, as reflected in the photograph on the third page of Item 125, which also accords with the instruction issued by the Single Judge on 21 November 2023 to "provide the SPO all known technical specifications of the Subject Printers, including but not limited to brand, model name, and serial number, as well as each printer's date of installation within the SC".<sup>56</sup> Although the Single Trial Judge considers that the photograph of the label of the printer is admissible as documentary evidence, the first page appears to describe things done or observed by the person who prepared it. In fact, the first page includes information that is not reflected on the printer label at all, such as the date on which the printer was delivered and installed. The first page of Item 125 has no identified author, and there is no affirmation of truth or accuracy by that author. Although the Single Trial Judge does not consider this fatal to the admissibility of the document in light of its limited scope, he will not, in the absence of such affirmation, accord any weight to information that is not reflected on the second page of the document. Accordingly, the document is admitted but will be relied on only to the extent that the information is confirmed by the visual evidence on the second page of the document.

32. The SPO submits that Item 126 is relevant as it "establishes the dates on which the identified materials were made available to the Case 6 Defence, including

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<sup>54</sup> SPO Annex, Item 125.

<sup>55</sup> Annex 1 to the Defence Response, Item 125.

<sup>56</sup> KSC-BC-2023-12, INV/F00057, Single Judge, *Decision on Urgent Prosecution Request*, 21 November 2023, strictly confidential and *ex parte*, para. 51(b). A lesser confidential redacted version and a public redacted version were issued on 15 May 2025 and 5 November 2025, INV/F00057/CONF/RED2 and [INV/F00057/RED](#), respectively.

THAÇI".<sup>57</sup> The Defence responds that the document is not relevant as, contrary to the SPO's claim, the document – as extracted from Legal Workflow – shows only the date of the creation of this Tendered Item, not its inter partes disclosure.<sup>58</sup> Although the Single Trial Judge considers that the Defence's submission may be correct, this does not preclude the creation date or other information on the table being potentially capable of demonstrating the date range within which the material was disclosed.

33. In conclusion, Tendered Items 117-119 and 125-126 are all admitted as satisfying the conditions for admission pursuant to Rule 138(1). However, in the absence of any authorship or affirmation of truth or accuracy, Item 125 will be accorded weight only to the extent confirmed by the photograph on the second page of the document.

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<sup>57</sup> SPO Annex, Item 126.

<sup>58</sup> Annex 1 to the Defence Response, Item 126.

## V. DISPOSITION

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

- a. **FINDS** the Second Request moot in respect of Item 113;
- b. **GRANTS** the remainder of the Second Request; and
- c. **ADMITS** into evidence, pursuant to Rule 138, Items 109-112 and 114-126 as listed in the SPO Annex (F00754/A01), subject to the restriction in relation to Item 125 as indicated in paragraph 31.



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**Judge Christopher Gosnell**  
**Single Trial Judge**

Dated this Tuesday, 24 March 2026

At The Hague, the Netherlands.