

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 Counsel for Hashim Thaçi

Date: 2 April 2026

Language: English

Classification: Public

**Public Redacted Version of Thaçi Defence Request for Admission of Documents
through the Bar Table
With Confidential Annex 1**

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I. INTRODUCTION

1. Pursuant to Rule 138 of the Rules,¹ the Defence for Mr Hashim Thaçi (“Defence”) hereby requests the admission from the bar table of the items listed in Annex 1 (“Proposed Exhibits”).
2. As demonstrated below and in Annex 1, all the Proposed Exhibits are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice. Rule 138 is a permissible means of admission for all the Proposed Exhibits.

II. PROCEDURAL BACKGROUND

3. On 13 March 2026, the Single Trial Judge issued a scheduling order setting deadlines for the next phase of proceedings, requiring that defence motions for the admission of non-testimonial evidence be filed by 2 April 2026, with any supplementary such motion to be filed up to one week after the hearing of the last Defence witness.²
4. On the same day, the Specialist Prosecutor’s Office (“SPO”) notified the closing of its case.³
5. On 27 March 2026, the Defence filed its Witness and Exhibit Lists.⁴
6. Also on 27 March 2026, the Defence filed a motion for the admission, through Rule 153, of the witness statement of DHT-01.⁵

¹ KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 (“Rules”).

² KSC-BC-2023-12/F00790, Single Trial Judge, [Scheduling Order](#), 13 March 2026, public.

³ KSC-BC-2023-12/F00792, [Prosecution notice pursuant to Rule 129](#), 13 March 2026, public.

⁴ KSC-BC-2023-12/F00827, Thaçi Defence Notice and Submissions of Witness and Exhibits Lists pursuant to Rule 119 with Confidential Annexes 1-2, 27 March 2026, public.

⁵ KSC-BC-2023-12/F00822, Thaçi Defence Request for Admission of Evidence of Witness DHT-01 pursuant to Rule 153 with confidential annex 1, 27 March 2026, confidential.

III. APPLICABLE LAW

7. Rule 138 of the Rules provides that evidence submitted to the Panel shall be admitted if it is relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect.
8. Evidence is *relevant* where it is connected, directly or indirectly, to the elements of the crime or the mode of liability pleaded in the indictment or other facts or circumstances material to the case of the Parties.⁶ This connection must be more than “tenuous or remote”,⁷ and the submitting party must “specify the relevance of the proposed exhibit”.⁸
9. Evidence is *authentic* “if it is what it professes to be in origin or authorship.”⁹ Whilst absolute proof of authenticity is not required for admissibility, the tendering party must at least establish a *prima facie* case of authenticity in order for an item to be admitted.¹⁰ This *prima facie* case of authenticity “may be based on attributes intrinsic to the item itself, or on other circumstances”.¹¹
10. Evidence has *probative value* when “it proves or disprove a fact or issue relevant to the case. This depends, in turn, on its reliability and its degree of relevance. Although this is primarily a question to be assessed in light of the totality of the

⁶ KSC-BC-2020-07/F00502, Trial Panel II, [Decision on the Defence Request for Admission of Items through the Bar Table and Related Matters](#), 17 December 2021, public (“*Gucati and Haradinaj* Defence Bar Table Decision”), para. 10; KSC-BC-2020-05/F00281/RED, Trial Panel I, [Public Redacted Version of Decision on the Admission of Evidence Collected Prior to the Establishment of the Specialist Chambers and Other Material](#), 13 December 2021, public (“*Mustafa* Decision on Admission”), para. 11; 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 (“*Gucati and Haradinaj* SPO Bar Table Decision”), para. 12.

⁷ KSC-BC-2023-12/F00737, Single Trial Judge, Decision on the Specialist Prosecutor’s Motion for Admission of Material through the Bar Table, 12 February 2026, confidential (“Decision on the SPO BTM”), para. 7; [Gucati and Haradinaj SPO Bar Table Decision](#), para. 12.

⁸ Decision on the SPO BTM, para. 7.

⁹ [Mustafa Decision on Admission](#), para. 12; [Gucati and Haradinaj SPO Bar Table Decision](#), para. 11.

¹⁰ [Gucati and Haradinaj Defence Bar Table Decision](#), para. 11; [Gucati and Haradinaj SPO Bar Table Decision](#), para. 13.

¹¹ Decision on the SPO BTM, para. 8.

evidence admitted, a *prima facie* showing of reliability is required for admissibility".¹² Probative value is thus "determined by two primary factors: (i) the *prima facie* reliability of the tendered evidence; and (ii) the measure by which that evidence is likely to influence the determination of a particular issue in dispute in the case."¹³

11. Evidence has a *prejudicial effect* if it adversely impacts the fairness or expeditiousness of the proceedings.¹⁴ In assessing whether an item's probative value is outweighed by its prejudicial effect, the Single Trial Judge must maintain and guarantee the "effectiveness of the right of the Accused to confront the case that is presented against them".¹⁵
12. The application of the prevailing principle of orality "depends on the nature of the material facts to be proven in any specific case".¹⁶

IV. SUBMISSIONS

13. The Proposed Exhibits are organized into different categories of material in Annex 1 and, within each category, to the extent possible, by witness and chronological order. They include Case 06 filings and transcripts;¹⁷ the prior public testimony of the Witnesses listed in the Indictment;¹⁸ media content;¹⁹

¹² Decision on the SPO BTM, para. 9.

¹³ [Gucati and Haradinaj Defence Bar Table Decision](#), para. 12; [Mustafa Decision on Admission](#), para. 13; [Gucati and Haradinaj SPO Bar Table Decision](#), para. 14.

¹⁴ [Gucati and Haradinaj Defence Bar Table Decision](#), para. 13; [Mustafa Decision on Admission](#), para. 14; [Gucati and Haradinaj SPO Bar Table Decision](#), para. 15.

¹⁵ KSC-BC-2020-06/F01596, Trial Panel II, [Second Decision on Specialist Prosecutor's Bar Table Motion](#), 9 June 2023, public, para. 84. See also [Gucati and Haradinaj SPO Bar Table Decision](#), para. 22.

¹⁶ Decision on the SPO BTM, para. 12.

¹⁷ Annex 1, Items no. 1 to 6.

¹⁸ Annex 1, Items no. 7 to 35.

¹⁹ Annex 1, Items no. 36 to 61.

prior versions of the SPO transcripts and translations of the charged visits;²⁰ reports²¹ and some other material.²²

14. Annex 1 to these submissions sets out particularised submissions which address the relevance and indicia of authenticity for each of the Proposed Exhibits. The Defence has also listed in Annex 1 the current classification of each item as registered on Legal Workflow. Where applicable, the Defence has indicated that it does not object to the item being reclassified as public upon admission.
15. The following submissions address, for each category, the general reasons why this category of Proposed Exhibits is relevant, and the legal basis for its admission pursuant to Rule 138.
16. As a whole and as further developed below, the Proposed Exhibits are relevant to all the charges against Mr Thaçi, namely: attempted obstruction of official persons in performing official duties (counts 1-3), violation of the secrecy of proceedings (counts 4-7), and contempt of court (counts 8-11).

i) Case 06 records

17. Items 1 and 2 are SPO submissions made in Case 06 regarding Witness 1 (W04746), wherein the SPO asserts that Witness 1 has been consistent in his statements. The Defence notes that the SPO case has become one of attempt, rather than actual obstruction of public officials. Nonetheless, it is relevant that Witness 1 was – on the SPO’s own account in Case 06 – consistent in his evidence. This is especially so in light of the Pre-Trial Judge’s observations in the Decision on the Confirmation of the Indictment that Witness 1 “seemingly

²⁰ Annex 1, Items no. 62 to 77.

²¹ Annex 1, Items no. 78-79.

²² Annex 1, Items no. 80 to 96.

deviated from his previous SPO interview” on certain points;²³ and given the SPO’s reliance, in its pre-trial brief, on purported contacts between Mr Fadil Fazliu, Mr Fahri Fazliu and Witness 1 to allege attempted obstruction.²⁴ The Defence submits that Witness 1 was consistent because no attempted obstruction occurred. For the SPO allegations to be coherent, the SPO must explain why – despite what the SPO claims was attempted interference with this testimony constituting attempted obstruction – Witness 1 nonetheless remained consistent in his testimony.

18. Items 3 to 6 are Case 06 public filings and transcripts which show central factual contentions of the Thaçi Defence, namely the Defence pre-trial brief, opening statement, final brief and closing statements in Case 06. These documents summarise Mr Thaçi’s defence case and the position taken by him in Case 06 through his counsel. These documents make clear that in Case 06 proceedings, Mr Thaçi has expressed a consistent position on certain of the issues discussed by Mr Thaçi and his visitors during the charged visits and in documents seized from the Accused, including: the role of the KLA General Staff; the relationship between the General Staff and the zone commanders; KLA communiques; the role of Mr Thaçi within the KLA political directorate and the Provisional Government of Kosovo, *etc.* These items will be used to demonstrate that, where the SPO alleges that seized documents contain instructions from Mr Thaçi in an attempt to obstruct Case 06 proceedings, these documents merely correspond to his publicly available defence position in Case 06. Similarly, these items are relevant to establishing that during the charged visits, opinions expressed by Mr Thaçi corresponded to his views on matters contested in Case 06, rather than instructions directed at particular witnesses.

²³ KSC-BC-2023-12/F00036/RED, Pre-Trial Judge, [Public Redacted Version of Decision on the Confirmation of the Indictment](#), 29 November 2024, public, para. 128.

²⁴ KSC-BC-2023-12/F00489/A01, [Annex 1 to Public redacted version of ‘Corrected Version of ‘Prosecution submission of pre-trial brief’](#)”, 7 October 2025, public, paras 28-29, 44-45.

19. These items are not tendered for the truth of their content, nor, as applicable, for the correctness of any legal proposition.²⁵ Rather, they are tendered pursuant to Rule 138, as evidence of the nature of the parties' submissions in Case 06.
20. The Defence submits that Rule 138 is the proper legal basis to admit these items in light of their limited proposed purpose as identified above. Nevertheless, in the alternative, if admission through Rule 138 is denied, the Defence submits that the Single Trial Judge should take judicial notice of the fact of these filings and transcripts in Case 06 as facts of common knowledge under Rule 157(1), noting that no judicial notice is taken of the truth-value of the content of any filing, nor, as applicable, the correctness of any legal proposition, but of the existence, content, and, as applicable, public status of these submissions in Case 06.²⁶

ii) Prior public testimony of Witnesses 1 to 5

21. Items 7 to 33, and 35 consist of prior *public* evidence (statements and transcripts of the oral testimony) given before other courts by Witness 1, Witness 2 (W04752), and Witness 5 (W04290). These items demonstrate that the scope and content of these witnesses' anticipated evidence in Case 06 was to a significant extent already in the public domain prior to the 2023 Detention Centre visits. Similarly, Item 34 is a decision from [REDACTED]; it summarises the prior evidence of [REDACTED], and was publicly commented in the press prior to

²⁵ See, *mutatis mutandis*, KSC-BC-2023-12/F00810, Single Trial Judge, Decision on the Specialist Prosecutor's Supplementary Motion for Admission of Material from the Bar Table, 24 March 2026, confidential ("Decision on the SPO Supplementary BTM"), paras 28, 33, concerning the admission of Item 118 'not for the truth of its content'.

²⁶ KSC-BC-2023-12/F00740, [Decision on Prosecution Motion for Judicial Notice of Facts of Common Knowledge \(F00629\)](#), 13 February 2026, public ("First Decision on Judicial Notice of Facts of Common Knowledge"), para. 18.

the 2023 Detention Centre visits, including the nature of [REDACTED] evidence.²⁷

22. The fact that such information was in the public domain prior to the period covered by the Indictment was confirmed by Witness 7 during his cross-examination. Witness 7 consistently acknowledged that for each of the witnesses mentioned in the Indictment, at least part of the scope of their anticipated evidence in Case 06 was in the public domain prior to the 2023 Detention Centre visits.²⁸ These Proposed Exhibits thus corroborate Witness 7's testimony and will allow the Single Judge to assess the extent of the information already in the public domain at the time of the events charged.
23. The scope and nature of the material in the public domain is relevant to the charges against Mr Thaçi. In particular, it is relevant to establishing whether Mr Thaçi revealed confidential information within the meaning of Article 392 of the Kosovo Criminal Code, or whether he simply commented on information which was already public and known to his visitors. It is also relevant to determining the extent to which any of the accused knew that certain information discussed might have been protected.
24. These items are not tendered for the truth of their content but only to show the scope of the publicly available information regarding the prior evidence of the witnesses mentioned in the Indictment. The Defence submits that these items are admissible pursuant to Rule 138, and notes that the Single Trial Judge has

²⁷ See, for instance, 1D00018_ET, discussed during Witness 7's cross-examination (KSC-BC-2023-12, Transcript of 2 March 2026, pp. 412-414).

²⁸ KSC-BC-2023-12, Transcript of 2 March 2026: For all: p.377, line 20 – p.378, line 7, p. 385, line 9-12; Witness 1: p.392, lines 21-22, p.397, lines 5-12; Witness 2: p.398, lines 19-21, p.402, lines 1-3, p. 403, lines 6-13; Witness 3: [REDACTED]; [REDACTED]; Witness 5: p.417, lines 20-23, p.418, line 24 – p.419, line 2, p.419, lines 18-24; [REDACTED].

already admitted a [REDACTED] which was tendered from the bar pursuant to Rule 138(1).²⁹

25. The Defence submits that Rule 138 is the proper legal basis to admit these items in light of the limited purpose mentioned above. Nevertheless, in the alternative, if admission through Rule 138 is denied, the Defence requests that the Single Trial Judge take judicial notice of the fact of these records as facts of common knowledge under Rule 157(1). In that event, the Defence requests that judicial notice be taken only of the existence, content, and as applicable, public nature of these items, rather than of the truth-value of their content.³⁰ The Defence notes that the former aspects of the items are not subject to reasonable dispute (as required for admission under Rule 157(1)³¹) since the items were all disclosed by the SPO through Legal Workflow in Cases 06 and 12.

iii) Media content

26. Items 36 to 59 are pieces of publicly available media content which include material about what happened to relevant Case 06 witnesses³² during the Kosovo conflict of 1998/1999, their prior testimonies, and/or the fact that they had been interviewed as witnesses or suspects by the SPO. All were published before or during the Indictment period. These items are relevant to establish that prior to the 2023 Detention Centre visits, the status of these persons as SPO witnesses and/or the scope of their anticipated evidence in Case 06 were already, to a significant extent, in the public domain prior to the 2023 visits.

²⁹ Decision on the SPO Supplementary BTM, paras 28, 33, referring to Item 118, [REDACTED], and noting at para. 28 that “[a]lthough 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.” See also, for instance, KSC-BC-2020-06/F01852, Trial Panel II, [Decision on Krasniqi Defence Request to Admit Additional Document Related to W02153](#), 11 October 2023, public, para. 10.

³⁰ See [First Decision on Judicial Notice of Facts of Common Knowledge](#), para. 28.

³¹ See [First Decision on Judicial Notice of Facts of Common Knowledge](#), para. 8.

³² Including witnesses who are mentioned in the Indictment and/or the SPO Pre-Trial Brief.

27. Items 60-61 are press articles which are relevant to establish the status of the Fazliu family in Kosovo and to explain the relationship between its members and Witness 1. This is relevant because it provides entirely lawful reasons why these individuals would be in contact with each other, thus countering the SPO's allegations that their purported communications or meetings were for the purpose of obstructing the KSC. These items are thus relevant to all charges against Mr Thaçi relating to Witness 1, Fadil Fazliu, and Fahri Fazliu.
28. These Proposed Exhibits are admissible pursuant to Rule 138. The Defence notes that the Single Trial Judge has already admitted similar press articles about Case 06 witnesses pursuant to Rule 138(1), from the bar³³ or during Witness 7's testimony.

iv) Previous versions of SPO transcripts and translations of the charged visits

29. Items 62 to 77 are previous versions of SPO transcripts and translations of the charged detention visits of 2 July, 3 and 9 September, 6 and 7 October 2023 which were disclosed to the Defence by the SPO.
30. In his Decision on the SPO BTM, the Single Trial Judge admitted certain versions of the SPO transcripts and translations of the charged visits³⁴ pursuant to Rule 138.³⁵ The Single Trial Judge considered that Defence arguments about the unreliability of those documents "go to the weight to be attributed to the transcriptions and translations, rather than their admissibility".³⁶ The Defence maintains its position regarding the serious flaws of the admitted transcripts

³³ P00154_ET, P00155_ET, P00156, admitted pursuant to Decision on the SPO BTM.

³⁴ P00105_ET, P00105_AT, P00106_ET, P00106_AT, P00107.1_ET, P00107.1_AT, P00107.2_ET, P00107.2_AT, P00107.3_ET, P00107.3_AT, P00107.4_ET, P00107.4_AT, P00108_ET, P00108_AT, P00109_ET, P00109_AT, P00110_ET, P00110_AT.

³⁵ Decision on the SPO BTM, para. 55.

³⁶ Decision on the SPO BTM, para. 32.

and translations,³⁷ and now seeks to provide the Single Judge with the material relevant to his assessment of the (limited, if any) weight to be given to the admitted transcripts and translations.

31. Items 62 to 77 are relevant insofar as they demonstrate important discrepancies in the different versions of the transcripts created by the SPO over time. The Defence notes that the SPO has not clarified when and how these different versions were created; the Defence can only observe that these prior versions were disclosed successively between 17 December 2024³⁸ and 25 September 2025.³⁹ The Single Trial Judge will observe that SPO transcribers did not initially hear some of the words which they later recorded in the admitted versions of the transcripts. In some instances voice attribution also changed as between successive versions for some excerpts. For instance, in the 2 July transcript, words initially attributed to “unidentified male” in the initial version,⁴⁰ were later attributed to Fadil Fazliu.⁴¹ In the transcript of the 9 September visit, certain words were first attributed to Artan Behrami⁴² before being attributed to Mr Thaci.⁴³ This remains unexplained by the SPO and contradicts the SPO’s claim that its transcription work was an “objective” process of merely recording sounds identified in the audio. These factors cast doubt as to the reliability as whole of the transcripts and translations of the covert audio recordings.

³⁷ KSC-BC-2023-12/F00688RED, [Public Redacted Version of Joint Defence Response to SPO motion for admission of material through the bar table with confidential Annexes 1-6, 8-10 and public Annex 7](#), 23 January 2026, public, paras 23-106; KSC-BC-2023-12/F00683RED, [Public Redacted Version of Joint Defence Response to Prosecution request for transcription-translation verification deadline](#), 20 January 2026, public, para. 6: “The Defence disputes the accuracy of the transcripts from the Detention Centre audio recordings in their entirety”.

³⁸ In Disclosure Package N° 6.

³⁹ In Disclosure Package N° 70. The date of disclosure of each transcript tendered is specified in Annex 1.

⁴⁰ 114037 020723-115000-140500-TR-AT-ET, p.6 l. 15: “[REDACTED]”

⁴¹ P00105_ET, p.6 l. 21: “[REDACTED]”

⁴² 115189 090923-071500-10500-101500-TR-AT-ET Revised, P.131: REDACTED

⁴³ P00108_ET, p.139, l. 9.

v) **Reports**

32. Items 78 and 79 are two reports, each produced by an expert commissioned by the Defence.
33. Item 78 is a report produced by [REDACTED], an expert in Kosovar law. His report addresses some of the provisions of the Kosovo Criminal Code which underpin the Indictment, and explain how these provisions are understood in Kosovar law, with references to domestic case law. This report is suitable for admission in writing through Rule 138 because it essentially presents an overview of the relevant domestic case law, and it may assist the Single Trial Judge in its interpretation of the relevant provisions, being noted that the Kosovo Specialist Chambers are a hybrid court. This item is relevant to arguments which the Defence will include in its closing brief regarding the correct and prevailing interpretations of Kosovo criminal law as charged in this case.
34. While tendering a report on law may be uncommon in international criminal tribunals, no rule prohibits the admission of such a document. In domestic jurisdictions, it is common that expert witnesses provide evidence on areas of law in which the judges lack expertise. That is most frequently seen in relation to foreign law,⁴⁴ But it also applies to specialist areas of national law for

⁴⁴ See, for example, UK Privy Council, [Perry v Lopag Trust \(No. 2\)](#) [2023] UKPC 16, para. 10 (“foreign law is proved by suitably qualified experts in the relevant foreign law”); UK Privy Council, [Alhamrani v Alhamrani](#) [2014] UKPC 37, para. 19 (“The function of the expert witness in relation to the interpretation of foreign statutes [involves the] expert tell[ing] the court what the statute means, explaining his opinion, if necessary, by reference to foreign rules of construction” (citation omitted)); Court of Appeal of England and Wales, *MCC Proceeds Inc v Bishopsgate Investment Trust Plc (No. 4)* [1999] CLC 417, para. 23 (“the function of the expert witness on foreign law can be summarised as follows: (1) to inform the court of the relevant contents of the foreign law; identifying statutes or other legislation and explaining where necessary the foreign court's approach to their construction; (2) to identify judgments or other authorities, explaining what status they have as sources of the foreign law; and (3) where there is no authority directly in point, to assist the English judge in making a finding as to what the foreign court's ruling would be if the issue was to arise for decision there”); High Court of England and Wales, [Banco Santander Totta SA v Companhia De Carris De Ferro De Lisboa SA](#) [2016] EWHC 465 (Comm), para. 237.

example traditional Chinese law in Hong Kong.⁴⁵ Reports on questions of law have also previously been used before the KSC. In *Case 05*, Trial Panel I solicited expert reports on Kosovan law and legal practice in order to clarify the legal position relating to reparations.⁴⁶ In *Case 07*, the Defence was permitted to call an expert who testified about legal standards applicable to whistleblowing and the concept of “public interest”, including regarding the “legal parameters” of these concepts as relevant to the Kosovo Criminal Code and the European Convention on Human Rights.⁴⁷ In its decision, Trial Panel II noted that “the purpose and justification for expert evidence is to enlighten or assist the Panel with specialised knowledge which the Panel does not possess”.⁴⁸ The Defence submits that that is the case with the material addressed by [REDACTED]’s report since the Panel does not contain a Kosovar jurist. This is also consistent with the approach applied at other international courts. In *Stakić*, the ICTY Appeals Chamber ruled that there was no justification for an expert to provide testimony as to matters of international criminal law, since this was within the competence of the Trial Chamber, but that the Trial Chamber could have allowed the expert to testify on domestic constitutional issues.⁴⁹

35. The Defence emphasizes that, in compliance with the rulings of Trial Panel II and the Court of Appeals Panel,⁵⁰ [REDACTED] was not asked for, and did not

⁴⁵ Hong Kong Court of Final Appeal, *Suen Toi Lee v Yau Yee Ping* [2002] 1 HKLRD 197, paras 34, 39, 49; Hong Kong Court of First Instance, *Tang Chun Kit v Tang Lo Ping* [2004] HKEC 1105, para. 17; Hong Kong Court of Appeal, *Tang Che Tai v Tang On Kwai* [2008] HKEC 143.

⁴⁶ KSC-BC-2020-05/F00124, Trial Panel I, [Decision on the appointment of expert\(s\)](#), 21 May 2021, public; KSC-BC-2020-05/F00310/RED, Trial Panel I, [Public redacted version of Decision on the application of Article 22\(9\) of the Law, setting further procedural steps in the case, and requesting information](#), 4 February 2022.

⁴⁷ KSC-BC-2020-07/F00470, Trial Panel II, [Decision on Prosecution Requests in Relation to Proposed Defence Witnesses](#), 3 December 2021, public (“*Gucati and Haradinaj* Decision on Defence Witnesses”), especially at para. 96

⁴⁸ [Gucati and Haradinaj Decision on Defence Witnesses](#), para. 66.

⁴⁹ ICTY, *Prosecutor v Stakic*, IT-97-24-A, Appeals Chamber, [Judgement](#), 22 March 2006, para. 164.

⁵⁰ [Gucati and Haradinaj Decision on Defence Witnesses](#), paras 98-99; KSC-CA-2022-01/F00114, Court of Appeals Panel, [Appeal Judgment](#), 2 February 2023, public, para. 96.

include in his report, opinions regarding how the relevant provisions of Kosovar law apply to the alleged facts of the present case.

36. Item 79 is a report produced by [REDACTED], an expert in phonetics, including forensic transcription. Her report sets out principles of phonetics which are relevant to understanding the transcripts produced in this case, as well as her own conclusions regarding whether the SPO's transcripts can be treated as reliable. The Defence has referenced a number of [REDACTED]'s publications in its previous filings related, in particular, to the admissibility of the SPO transcripts and translations of the detention visits.⁵¹ This report is suitable for admission in writing through Rule 138 since the issues raised have already been litigated, to some extent, by the parties in their filings related to the admissibility of the SPO transcripts and translations and the Language Services Unit ("LSU") Verification process. While relevant scientific material is readily available in the public domain and has already been cited by the Defence, [REDACTED]'s report is an additional tool to assist the Single Trial Judge in understanding scientific principles concerning forensic transcription and their application to the reliability of the SPO's transcripts. It is notable that in the present case, the SPO chose to neither use an expert to produce its transcripts, nor to tender any piece of expert evidence to refute the principles of phonetics relied upon by the Defence. It is the SPO which bears the burden of proof to demonstrate that its transcripts are reliable. Having failed to call any evidence to demonstrate that when it had the chance, the SPO should not be permitted to insist that the Defence's evidence be presented orally.
37. These reports are tendered pursuant to Rule 138 and not Rule 149, in light of their limited purpose and of the KSC case law pursuant to which an expert report is admissible under Rule 138 when the expert is not called to testify by a

⁵¹ [REDACTED].

Party under Rule 149.⁵² The Defence further relies on the Single Trial Judge's rulings that reports may be admitted from the bar table. For example, the Single Trial Judge admitted a report produced by the Registry and tendered from the bar table by the SPO.⁵³ The Single Trial Judge also admitted reports produced by the Independent Counsel from the bar.⁵⁴ The Single Trial Judge has also applied this approach to reports which are a reflection of expertise.⁵⁵ The Single Trial Judge has admitted reports tendered by the SPO from the bar table, which were specifically commissioned by the SPO, or by a Panel at the request of the SPO, for use in the current proceedings.⁵⁶ As observed by the Single Trial Judge, whether the authors of the reports have been called as witnesses will be considered when determining the weight, if any, to be attributed to the reports in light of all the evidence adduced at trial, rather than being a factor which determines admission.⁵⁷

vi) Other material

38. Item 80 is an email exchange between the Defence and the Court Management Unit ("CMU")/LSU, in response to a Defence request for transcription. The Defence was informed that LSU had been unable to transcribe two segments

⁵² See, *inter alia*, KSC-BC-2020-06/F03211/RED, Trial Panel II, [Public Redacted Version of Decision on Prosecution Motion for Admission of Documents concerning Murder Victims and Related Request](#), 29 May 2025, public, paras 17-18 and KSC-BC-2020-06/F03213, Trial Panel II, [Decision on Prosecution Motion for Admission of International Report](#), 29 May 2025, public, para. 14, confirmed on appeal by KSC-BC-2020-06/IA038/F00011, Court of Appeals Panel, [Decision on Joint Defence Consolidated Appeal Against Decisions F03201, F03202, F03202, F03211 and F03213](#), 8 October 2025, public ("Case 06 Appeal Decision on Expert Evidence"), paras 33, 38-39; KSC-BC-2020-06/F03602, Trial Panel II, [Decision on Krasniqi Defence Second Application for Admission of Material through the Bar Table](#), 1 December 2025, public, para. 72.

⁵³ Decision on the SPO BTM, paras 44-45.

⁵⁴ Decision on the SPO BTM, paras 79-80.

⁵⁵ Decision on the SPO BTM, paras 66-68, citing [Case 06 Appeal Decision on Expert Evidence](#); Decision on the SPO Supplementary BTM, para. 13.

⁵⁶ Decision on the SPO BTM, paras 66-70, 79-80.

⁵⁷ Decision on the SPO BTM, para. 68, referring to [Case 06 Appeal Decision on Expert Evidence](#), para. 45.

of audio from the Kuçi visit of 3 September 2023, because the audio was unintelligible.

39. Items 81 to 96 are the contents of an email exchange, and its attachments, between the Defence and Eurideas Language Experts, a company specialised in transcription and translation. These items show a Defence request for transcription and translation of five audio files played by the SPO during its opening statement, which correspond to excerpts of the Fazliu visit of 2 July 2023, Kilaj visit of 6 October 2023, and Smakaj visit of 7 October 2023; they also include the transcripts and translations produced by Eurideas Language Experts, which differ in significant parts from the SPO transcripts and translations already admitted.
40. Items 80-96 are thus relevant to the weight to be allocated to the SPO transcripts (and translations thereof) of the Kuçi, Fazliu, Kilaj and Smakaj visits, and more generally calls into question the reliability of all the admitted transcripts/translations of the detention visits which were presumably produced in the same way. These items show that significant portions of the audio recordings are indistinct and that these parts cannot be “objectively” transcribed without reliance on contextual information and expectations.
41. The Defence submits that these items are admissible pursuant to Rule 138. It notes that the Single Trial Judge admitted under Rule 138 and from the bar table the SPO transcripts and translations of the detention visits. He also admitted under Rule 138 various emails and their attachments which were tendered via bar table motion by the SPO, including: emails between the parties and CMU in Case 06;⁵⁸ emails between the SPO and a party in Case 06;⁵⁹ and

⁵⁸ P00159-P00162, P00164, P00167, admitted pursuant to Decision on the SPO BTM.

⁵⁹ P00163, P00165, admitted pursuant to Decision on the SPO BTM.

[REDACTED] visitor forms [REDACTED].⁶⁰ In all of the tendered emails, the sender, recipient and date are clearly identified.

42. Particularised submissions on relevance are included in Annex 1 with reference to each item.

V. CLASSIFICATION

43. The present submissions are filed as confidential pursuant to Rule 82(3) due to the nature of the material referenced therein. A public redacted version will be filed in due course.

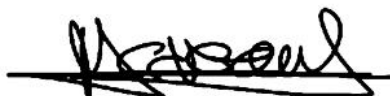
VI. CONCLUSION

44. The Proposed Exhibits listed in Annex 1 are *prima facie* authentic, relevant and have probative value that is not outweighed by any prejudice. All are items which are amenable to admission through Rule 138, based on the practice of the KSC and the Single Trial Judge's previous rulings.
45. For the above reasons, the Defence requests that the Single Trial Judge:

ADMIT the Proposed Exhibits listed in Annex 1.

[Word count: 5354 words]

Respectfully submitted,



Sophie Menegon

Counsel for Hashim Thaçi

Thursday, 2 April 2026

Paris, France

⁶⁰ P00009/P00009_ET, P00013, P00021/P00021_ET, P00022/P00022_ET, P00043/P00043_ET, etc., admitted pursuant to Decision on the SPO BTM.