



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2020-06  
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

**Before:** Pre-Trial Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Acting Specialist Prosecutor

**Date:** 18 November 2022

**Language:** English

**Classification:** Confidential

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**Prosecution response to THAÇI addendum to its motion for unique investigative opportunities**

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1. The Addendum<sup>1</sup> – like the Request<sup>2</sup> – lacks legal basis and adequate justification. It should be dismissed.
2. At the outset, the Specialist Prosecutor’s Office (‘SPO’) notes that the Addendum was submitted after the deadline prescribed by the Pre-Trial Judge<sup>3</sup> and no request to vary the time limit was made pursuant to Rule 9(5)(a).<sup>4</sup> Regardless, the Addendum also fails on its merits.
3. First, the primary relief sought – that the Witness<sup>5</sup> be heard by member(s) of a trial panel<sup>6</sup> – exceeds the statutory powers vested in the Pre-Trial Judge.<sup>7</sup>
4. Second, the Request fails to show that any measure under Rule 99 or Rule 100 is justified with respect to the Witness.<sup>8</sup> Once again, the THAÇI Defence relies primarily on the Witness’s age and does not concretely demonstrate that the Witness’s evidence may be unavailable at trial<sup>9</sup> or that any exceptional Rule 99-100 measures are necessary to ensure fair and expeditious proceedings.<sup>10</sup> In this regard, the importance of the Witness’s evidence is unclear on the face of the Addendum and Annex 1 provides little tangible information on the content of the Witness’s anticipated evidence. For example, the source of the Witness’s knowledge – including whether firsthand or hearsay – is not clearly specified.<sup>11</sup> Similarly, substantive detail – such as

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<sup>1</sup> Addendum to Thaçi Defence Motion Justifying Request for Unique Investigative Opportunities with confidential Annex 1, KSC-BC-2020-06/F01099, 11 November 2022, Confidential (‘Addendum’).

<sup>2</sup> Thaçi Defence Motion Justifying Request for Unique Investigative Opportunities, KSC-BC-2020-06/F01068, 28 October 2022, Confidential (‘Request’). *See also* Thaçi Defence Notice of Unique Investigative Opportunities, KSC-BC-2020-06/F01018, 7 October 2022, (‘Notice’).

<sup>3</sup> Transcript, 8 September 2022, pp.1582-1583 (requiring that ‘Requests justifying the need for such measures shall be filed by 28 October 2022’).

<sup>4</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC- BD-03/Rev3/2020, 2 June 2020 (‘Rules’). All references to ‘Rule’ or ‘Rules’ herein refer to the Rules, unless otherwise specified.

<sup>5</sup> The one witness identified in the Addendum is referred to herein as the ‘Witness’.

<sup>6</sup> Addendum, KSC-BC-2020-06/F01099, para.11; Notice, KSC-BC-2020-06/F01018, paras 10-14.

<sup>7</sup> *See* Prosecution response to THAÇI request for unique investigative opportunities, KSC-BC-2020-06/F01096, 10 November 2022, Confidential (‘Response’), para.2.

<sup>8</sup> Response, KSC-BC-2020-06/F01096, paras 7, 11. *Contra* Addendum, KSC-BC-2020-06/F01099, paras 14-15 *referring to* Request, KSC-BC-2020-06/F01068, paras 17-29.

<sup>9</sup> Response, KSC-BC-2020-06/F01096, paras 4-5. *Contra* Addendum, KSC-BC-2020-06/F01099, para.14.

<sup>10</sup> Response, KSC-BC-2020-06/F01096, paras 7, 11. *Contra* Addendum, KSC-BC-2020-06/F01099, para.15 *referring to* Request, KSC-BC-2020-06/F01068, paras 17-29.

<sup>11</sup> Annex 1 to Addendum, KSC-BC-2020-06/F01099/A01, paras 5, 7-8.

the nature and frequency of the Witness's interactions with THAÇI and other KLA members, the topics of meetings he arranged, and whether he attended them – is lacking.<sup>12</sup>

5. Accordingly, while the SPO does not object to the use of Rule 99-100 measures when justified,<sup>13</sup> the Addendum suffers from the same defects as the Request. Both should be rejected in their entirety.

6. This response is confidential pursuant to Rule 82(4). The SPO does not object to its reclassification as public.

**Word count: 485**



**Alex Whiting**  
**Acting Specialist Prosecutor**

Friday, 18 November 2022

At The Hague, the Netherlands.

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<sup>12</sup> Annex 1 to Addendum, KSC-BC-2020-06/F01099/A01, para.8.

<sup>13</sup> See also Response, KSC-BC-2020-06/F01096, paras 6-7.