

In: KSC-BC-2023-12

Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: Pre-Trial Judge
Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

Date: 7 May 2025

Language: English

Classification: Public

**Thaçi Defence Preliminary Motion Requesting Severance of the Indictment and
Adjournment of Proceedings concerning Mr Thaçi
With Public Annex 1**

Specialist Prosecutor's Office
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon
Luka Mišetić

Specialist Counsel for Bashkim Smakaj
Jonathan Elystan Rees KC
Huw Bowden

Specialist Counsel for Isni Kilaj
Iain Edwards
Joe Holmes

Specialist Counsel for Fadil Fazliu
David A. Young

Specialist Counsel for Hajredin Kuçi
Alexander Admiraal

I. Introduction	1
II. Procedural History	2
III. Applicable Law	5
IV. Context of the proceedings in the two cases	6
V. Concurrent trials in Cases 06 and 12 would violate defence fair trial rights .8	
A. Concurrent trials are unprecedented	9
B. Concurrent trials would violate Mr Thaçi's fair trial rights	11
1. Mr Thaçi's personal involvement in preparing his defence	11
2. Mr Thaçi's right to legal representation appropriate to the matter	14
3. An adjournment is required to protect Mr Thaçi's rights	17
C. Concurrent trials would violate the rights of the Case 06 co-accused	18
VI. Overlapping findings in Cases 06 and 12 would violate Mr Thaçi's rights.19	
A. Res Judicata	21
B. Non Bis in Idem	23
VII. Severance is appropriate to protect the rights of the other accused to be tried without undue delay	24
VIII. CONCLUSION	27

I. INTRODUCTION

1. This preliminary motion is filed pursuant to Article 39 of Law No. 05/L-053 on the Specialist Chambers and Specialist Prosecutor's Office ("KSC Law"), Rule 97(1) of the Rules of Procedure and Evidence ("Rules") and the Pre-Trial Judge's decision of 14 April 2025 which fixed the deadline for preliminary motions as 8 May 2025.¹ In it, the defence of Mr Hashim Thaçi ("Defence") requests the severance of the

¹ KSC-BC-2023-12/F00260, Pre-Trial Judge, [Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions](#), 14 April 2025, Public.

indictment in the present case² (“Indictment”) and the adjournment of the proceedings against Mr Thaçi until after Case 06³ is closed.⁴

2. Mr Thaçi is confronted by an exceptional threat to his rights. He faces two separate indictments, in Case 06 and Case 12,⁵ with proceedings timed such that their trials may directly overlap at the moment when he presents a defence to the most serious charges against him. If both trials were to proceed, it would be the first time this has been permitted at an international tribunal. In this event, Mr Thaçi’s ability to effectively participate in both trials could only be protected by substantially slowing the pace of both proceedings, harming the rights of his co-accused in both cases. Mr Thaçi’s right to effective and appropriate legal representation would also be undermined.
3. The only way to protect Mr Thaçi’s fair trial rights, while also upholding the rights of the other accused in Case 06 and Case 12 to trial without undue delay, is to sever the charges against Mr Thaçi and adjourn those proceedings until the conclusion of the Case 06 trial. This is a reasonable and proportionate measure to address a singularly serious challenge to the fairness of the KSC’s proceedings.

II. PROCEDURAL HISTORY

4. On 26 October 2020, an indictment was confirmed against Mr Hashim Thaçi, Mr Kadri Veseli, Mr Rexhep Selimi, and Mr Jakup Krasniqi.⁶ The case based on that indictment is hereinafter referred to as “Case 06”.

² KSC-BC-2023-12/F00264/A02, SPO, [Submission of Amended Confirmed Indictment with confidential Annex 1 and public Annex 2](#) (“Amended Indictment”), 16 April 2025, Public.

³ KSC-BC-2020-06 (“Case 06”).

⁴ Pursuant to rule 136 of the Rules, *i.e.* once the Presiding Judge has declared that the case is closed.

⁵ KSC-BC-2023-12 (“Case 12”).

⁶ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F00026/RED, Pre-Trial Judge, [Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi](#), 26 October 2020 (public redacted version issued on 30 November 2020), Public.

5. On the same day, arrest warrants were issued against all four accused.⁷ Mr Krasniqi was transferred to the KSC detention facility on 4 November 2020.⁸ The transfer of Mr Thaçi, Mr Veseli and Mr Selimi followed on 5 November 2020.⁹
6. Following pre-trial proceedings, the Case 06 case file was transmitted to Trial Panel II on 15 December 2022.¹⁰ The trial in Case 06 began on 3 April 2023, and is ongoing at the time of this motion. The last SPO witness testified on 27 March 2025 and the SPO closed its case on 15 April 2025.¹¹ The Victims' case and Defence case, if any, are likely to take place between mid-2025 and late 2025.¹²
7. On 2 November 2023, Mr Kilaj was arrested.¹³
8. On 17 November 2023, the Mr Thaçi's legal team in Case 06 was made aware for the first time that the SPO were investigating Mr Thaçi in connection with witness

⁷ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F00027/RED, [Pre-Trial Judge, Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders](#), 26 October 2020, (public redacted version issued on 26 November 2020), Public.

⁸ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F00048, Registry, [Notification of Reception of Jakup Krasniqi in the Detention Facilities of the Specialist Chambers](#), 4 November 2020, Public.

⁹ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F00053, Registry, [Notification of Reception of Hashim Thaçi in the Detention Facilities of the Specialist Chambers and Appointment of Counsel](#), 5 November 2020, Public; KSC-BC-2020-06/F00054, Registry, [Notification of Reception of Kadri Veseli in the Detention Facilities of the Specialist Chambers and Appointment of Counsel](#), 5 November 2020, Public; KSC-BC-2020-06/F00055, Registry, [Notification of Reception of Rexhep Selimi in the Detention Facilities of the Specialist Chambers and Appointment of Counsel](#), 5 November 2020, Public;

¹⁰ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F01166, Pre-Trial Judge, [Decision Transmitting the Case File to Trial Panel II](#), 15 December 2022, Public.

¹¹ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03121, [Prosecution notice pursuant to Rule 129](#), 15 April 2025, Public.

¹² KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06, Transcript of Status Conference of 22 January 2025, p. 24341 et seq.

¹³ KSC-BC-2023-12/INV/F00042/RED, [Public redacted version of 'Prosecution report on arrest of Isni KILAJ with strictly confidential and ex parte annexes 1 and 2, 3 November 2023](#) (public redacted version issued on 8 November 2023), Public.

interference allegations and had requested and been granted a series of Special Investigative Measures ("SIMs").¹⁴

9. On 15 December 2023, the SPO submitted its first proposed indictment in the present proceedings.¹⁵
10. On 15 May 2024, pursuant to a decision of the Pre-Trial Judge for provisional release, Mr Kilaj was provisionally released from detention.¹⁶
11. On 29 November 2024, following Pre-Trial Judge orders and the submission of a new proposed indictment, an indictment was confirmed by the Pre-Trial Judge.¹⁷
12. Also on 29 November 2024, the Pre-Trial Judge issued a summons to appear for Mr Kuçi and arrest warrants against Mr Thaçi, Mr Smakaj, Mr Kilaj (who had been on provisional release) and Mr Fazliu.¹⁸ These last three were arrested on 5 December 2024 and Mr Thaçi, already detained in Case 06, was served a new arrest warrant on the same day.¹⁹
13. Following an SPO appeal, on 3 April 2025, an Appeals Panel partly reversed the decision which had confirmed the indictment and remanded the matter to the Pre-

¹⁴ This was revealed in KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F01933/RED, [Public redacted version of 'Prosecution urgent request for modification of detention conditions with confidential Annexes 1 to 5'](#), 17 November 2023, Public, para. 6.

¹⁵ KSC-BC-2023-12/F00002, SPO, Submission of Indictment for confirmation and related request with strictly confidential and ex parte Annexes 1-3, 15 December 2023, Confidential.

¹⁶ KSC-BC-2023-12/INV/F00274, Registrar, [Notification of Isni Kilaj's Transfer to Kosovo](#), 15 May 2024, Public.

¹⁷ KSC-BC-2023-12/F00036, Pre-Trial Judge, [Public Redacted Version of the Decision on the Confirmation of the Indictment](#), 29 November 2024 (public redacted version issued on 12 February 2025), Public.

¹⁸ KSC-BC-2023-12/F00037/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Request for Arrest Warrants and Related Matters](#), 29 November 2024 (public redacted version issued on 19 December 2024), Public.

¹⁹ KSC-BC-2023-12/F00042, Registrar, Notification of Arrest of Bashkim Smakaj Pursuant to Rule 55(4), 5 December 2024, (reclassified as public on 14 January 2025), Public; KSC-BC-2023-12/F00043, Registrar, [Notification of Arrest of Isni Kilaj Pursuant to Rule 55\(4\)](#), 5 December 2024, Public; KSC-BC-2023-12/F00045, Registrar, [Notification of Arrest of Fadil Fazliu Pursuant to Rule 55\(4\)](#), 5 December 2024, Public; KSC-BC-2023-12/F00048, Registrar, [Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55\(4\), 5 December 2024](#), Public.

Trial Judge.²⁰ On 14 April 2025, the Pre-Trial Judge amended her Decision on the Confirmation of the Indictment and ordered the SPO to file an amended confirmed Indictment.²¹ The SPO filed the Indictment on 16 April 2015.²² It is the basis of the present case (also referred to as “Case 12”).

14. On the same day, the Pre-Trial Judge ordered that preliminary motions be filed by 8 May 2025.²³

III. APPLICABLE LAW

15. Article 39(9) of the KSC Law empowers a Pre-Trial Judge to order the severance of a case. Rule 89 of the Rules permits a KSC panel, at any stages of proceedings, to order that jointly charged persons be tried separately, in the interests of a fair trial.

16. In a previous decision on severance, the Pre-Trial Judge has elaborated that:

in the exercise of her discretion to sever a case, she must strike a fair balance between the need to ensure the proper administration of justice and respecting the rights of the accused to a fair and expeditious trial.²⁴

17. Article 21(4) of the KSC Law guarantees the rights of an accused, *inter alia*:

c. to have adequate time and facilities for the preparation of his or her defence and to communicate with Specialist Counsel of his or her own choosing;

d. to be tried within a reasonable time;

²⁰ KSC-BC-2023-12/IA002/F00012/RED, Appeals Panel, [Public Redacted Version of Decision on the Specialist Prosecutor’s Office’s Appeal Against the Decision on the Confirmation of the Indictment](#), 3 April 2005, Public.

²¹ KSC-BC-2023-12/F00260, Pre-Trial Judge, [Decision Amending the “Decision on the Confirmation of the Indictment” and Setting a Date for the Submission of Preliminary Motions](#), 14 April 2025, Public.

²² [Amended Indictment](#).

²³ KSC-BC-2023-12/F00260, Pre-Trial Judge, [Decision Amending the “Decision on the Confirmation of the Indictment” and Setting a Date for the Submission of Preliminary Motions](#), 14 April 2025, Public.

²⁴ KSC, *Prosecutor v Januzi, Bahtijari and Haxhi Shala*, [KSC-BC-2023-10/F00452](#), Pre-Trial Judge, [Decision on Application for Severance](#), 27 August 2024, Public, para. 40.

e. to be tried in his or her presence, and to defend himself or herself through Specialist Counsel of his own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have Specialist Counsel assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it.

18. The right to a fair and impartial trial is also set out in Article 31 of the Kosovo Constitution, and Article 6 of the European Convention on Human Rights ("ECHR"). Article 22 of the Kosovo Constitution provides that human rights guaranteed by various international instruments, including the ECHR, are directly applicable as part of Kosovan law. Article 53 of the Kosovo Constitution provides that human rights and fundamental freedoms guaranteed by the Constitution "shall be interpreted consistent with the court decisions of the European Court of Human Rights."

19. When considering questions of severance, not only the rights of the accused who seeks severance must be considered, but also those of the co-accused.²⁵

IV. CONTEXT OF THE PROCEEDINGS IN THE TWO CASES

Case 06

20. Proceedings in Case 06 are complex and are now at a particularly crucial and intensive juncture for Mr Thaçi's Case 06 defence ("Case 06 Defence").

21. In Case 06, Mr Thaçi and three others are accused of committing war crimes and crimes against humanity through a joint criminal enterprise in Kosovo and Northern Albania from March 1998 to September 1999. The SPO case ran for two years. Some 125 *viva voce* witnesses testified between 11 April 2023 and 27 March 2025, and the SPO has sought to admit the evidence of around 133 witnesses in writing, through Rule 153 or Rule 155. More than 3160 filings have been made in

²⁵ KSC, *Prosecutor v Januzi, Bahtijari and Haxhi Shala*, [KSC-BC-2023-10/F00452](#), Pre-Trial Judge, [Decision on Application for Severance](#), 27 August 2024, Public, para. 40.

the case to date. For the past two years, trial has progressed at a fast pace, with around 4-day hearing weeks in blocks of 3 weeks of hearings, with 1-2 weeks breaks. Hearing attendance, preparation for SPO witnesses and filings have consumed the Case 06 Defence legal team, as well as Mr Thaçi's personal energy and attention.

22. Although the last SPO witness testified on 27 March 2025 and the SPO case closed on 15 April 2025,²⁶ that pace of work has not abated. The Case 06 Defence responded in April and May to several Rule 153-155 motions and bar table motions from the SPO,²⁷ and is now fully occupied with the preparation of a Rule 130 submission²⁸ which requires considerable work given the scale of the SPO's case.
23. If Rule 130 submissions are unsuccessful, the subsequent period will involve a victims' case and may involve defence cases. The Case 06 defendants are not yet required to indicate their intentions regarding a defence case, and should not be compelled to do so in order to address scheduling concerns in a separate proceeding. However, the Defence is able to indicate that the Case 06 Defence is undertaking investigations with a view to deciding on a potential defence case. These investigations themselves are time-consuming and require active involvement from Mr Thaçi. A defence case could begin following the summer

²⁶ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03121, Prosecution notice pursuant to Rule 129, 15 April 2025, Public.

²⁷ See, *inter alia*, KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03028-Red, Public Redacted Version of Joint Defence Response to 'Prosecution eighth motion for admission of evidence pursuant to Rule 155' (F03028) With Confidential Annex 1 and Annex 2, 4 April 2025, Public; KSC-BC-2020-06/F03145-Red, Public Redacted Version of 'Joint Defence Response to Prosecution motion for admission of General Staff and Provisional Government of Kosovo documents (F03065), With Confidential Annexes 1-3', 24 April 2025, Public; KSC-BC-2020-06/F03156-Red, Public Redacted Version of Thaçi Defence Response to SPO Request for Admission of Proposed Exhibits (F03120) and Second Request for Exclusion of Materials *in limine* with Confidential Annex 1, 2 May 2025, Public.

²⁸ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, [KSC-BC-2020-06/F03123](#), [Joint Defence Notification Pursuant to Rule 130\(1\)](#), 16 April 2025, Public.

recess (given that a 1-2 week victims' case is expected to occur in July 2025).²⁹ This stage of proceedings would be the case's heaviest period of work for the Case 06 Defence and Mr Thaçi.

24. Final trial briefs and closing arguments would be expected to follow either in late 2025 or early 2026. Until that time, the Case 06 Defence will be focused on reviewing the voluminous evidence of the case in order to draft the final brief.

Case 12

25. While the present case is considerably more confined in scope than Case 06, it nonetheless involves considerable work, Mr Thaçi being indicted on eleven Counts. Particular complexities are created by the overlap between the proceedings in this case and Case 06. This calls for the Defence to have an understanding of the Case 06 charges and evidence and the history of the proceedings across both cases.
26. Time estimates for the proceedings are difficult to assess. However, if preliminary motions are disposed of by June 2025, trial hearings in Case 12 may be scheduled following the summer recess. The clear concern for Mr Thaçi, is that he will face the most critical periods of two criminal proceedings, at the same time.

V. CONCURRENT TRIALS IN CASES 06 AND 12 WOULD VIOLATE DEFENCE FAIR TRIAL RIGHTS

27. Mr Thaçi and his legal team are presently fully occupied with the Case 06. If Case 12 proceeds to trial immediately, the two cases will run concurrently. It would be impossible for Mr Thaçi to receive a fair trial in these circumstances, meaning that an adjournment of the present case is necessary, at least insofar as the charges affect Mr Thaçi.

²⁹ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06, Transcript of Status Conference of 22 January 2025, p. 24343 *et seq.*; KSC-BC-2020-06, Transcript of Status Conference of 23 April 2025, p. 26175, l. 24-25.

A. CONCURRENT TRIALS ARE UNPRECEDENTED

28. No international criminal tribunal has ever imposed two concurrent trials against a single accused. In all previous instances where an accused has faced multiple criminal proceedings, trials have been held consecutively, or one has been adjourned for the duration of the other.
29. The issue has sometimes arisen in previous instances where a main case and related proceedings concerning the administration of justice overlapped. At the International Criminal Court ("ICC"), proceedings were brought against Mr Bemba for offences against the administration of justice, but charges were only confirmed in that case after the closure of the trial in the *Bemba* main case. Indeed, the Trial Chamber consciously avoided the possibility of parallel proceedings. After the end of the Bemba defence case, the ICC Prosecution sought to admit evidence obtained through its witness interference investigations.³⁰ The Defence response indicated that admitting the evidence would require extending the main case and lead to a Defence request to stay proceedings until the closure of the interference case.³¹ In rejecting the Prosecution request, the Trial Chamber noted that admitting the material would risk parallel proceedings, with a potential for lengthy delays as a result.³²
30. At the ICTY, when contempt charges were brought against a person already accused in a main case, the main case proceedings were adjourned. Although this may have been done for various reasons, the consequence was that the accused was not faced with two concurrent trials. In *Simić*, when contempt allegations were brought against one of the accused, Milan Simić, shortly before the scheduled start of trial in June 1999, the main trial was suspended and did not

³⁰ [ICC-01/05-01/08-2910](#).

³¹ [ICC-01/05-01/08-2937-Red](#), paras 38-39.

³² [ICC-01/05-01/08-3029](#), paras 26-27, 30-31.

resume until after Simić was acquitted of contempt.³³ In *Šešelj*, proceedings in the main case were adjourned in February 2009 while contempt issues were dealt with by a separate chamber.³⁴ After the first contempt judgment had been issued in July 2009,³⁵ proceedings in the main case restarted in November 2009 at the request of the accused.³⁶ Two subsequent contempt trials occurred (from February to June 2011³⁷ and on 12 June 2012³⁸), but both took place after all witnesses had been heard in the main case.³⁹

31. In other instances, proposals have been made to sever large cases into multiple smaller cases. In *Mladić*, the ICTY rejected a Prosecution request for severance of this kind and considered that the conduct of two parallel proceedings would violate the rights of the accused.⁴⁰ At the ECCC, a decision was taken to sever the court's largest case, Case 002, into smaller parts. However, the trial portions of the severed cases were to run consecutively, so that Case 002/02 commenced only "as soon as possible after the end of closing submissions in Case 002/01".⁴¹ The Supreme Court Chamber considered the possibility of a different Trial Chamber being constituted to hear the second portion of the case, but never suggested that two trials could run in parallel.⁴²
32. The lack of any precedent in international criminal law for the holding of two concurrent substantive trials against a single accused reflects how self-evidently this would place a severely prejudicial burden on an accused. In the instant case, it would be utterly unfair to request Mr Taçi and his Defence team to

³³ *Simić et al.*, [Contempt Judgement](#).

³⁴ *Šešelj*, [Judgement Volume 1](#), Annex 2, para. 5; *Šešelj*, [Decision on Adjournment](#).

³⁵ *Šešelj*, [Contempt Judgement](#).

³⁶ *Šešelj*, [Judgement Volume 1](#), Annex 2, para. 5; *Šešelj*, [Consolidated Decision](#), paras 100-107.

³⁷ *Šešelj*, [2011 Judgement](#), paras 10-11.

³⁸ *Šešelj*, [2012 Judgement](#), para 32.

³⁹ See *Šešelj*, [Judgement Volume 1](#), Annex 2, paras 5-8.

⁴⁰ *Mladić*, [Decision on Consolidated Motion](#), para. 31.

⁴¹ [E284/4/8](#), para. 72. See also [E163/5/1/13](#), para. 51.

⁴² *Ibid.*

concurrently contest a prosecution case in Case 12 and mount a Defence case in Case 06.

B. CONCURRENT TRIALS WOULD VIOLATE MR THAÇI'S FAIR TRIAL RIGHTS

1. Mr Thaçi's personal involvement in preparing his defence

33. A person accused before the KSC is guaranteed a fair trial in accordance with the rights set out in Article 21 of the KSC Law, Article 31 of the Kosovo Constitution and Article 6 of the ECHR.⁴³

34. Pursuant to article 6 of the ECHR, a defendant has a right to personally participate in his criminal trial. The European Court of Human Rights has elaborated the principle as follows:

Article 6 (art. 6), read as a whole, guarantees the right of an accused to participate effectively in a criminal trial. In general this includes, inter alia, not only his right to be present, but also to hear and follow the proceedings. Such rights are implicit in the very notion of an adversarial procedure and can also be derived from the guarantees contained in sub-paragraphs (c), (d) and (e) of paragraph 3 of Article 6 (art. 6-3-c, art. 6-3-d, art. 6-3-e), - "to defend himself in person", "to examine or have examined witnesses", and "to have the free assistance of an interpreter if he cannot understand or speak the language used in court"...⁴⁴

35. The right of an accused person to effectively participate in a criminal trial encompasses the right to be physically present at proceedings, and to hear and follow them, but also the possibility to actively engage in the proceedings, including by instructing a lawyer on the conduct of the defence:

Given the sophistication of modern legal systems, many adults of normal intelligence are unable fully to comprehend all the intricacies and all the

⁴³ Referral by Driton Lajci to the Constitutional Court Panel on the Legality of the Interview Procedure by the Specialist Prosecutor's Office, KSC-CC-2019-07/F00013, Constitutional Court, [Decision on the Referral of Driton Lajci Concerning Interview Procedure by the Specialist Prosecutor's Office](#), 13 January 2020, Public, para. 14.

⁴⁴ Stanford [Judgment](#), para. 26; see also SC [Judgment](#), para. 28.

exchanges which take place in the courtroom: this is why the Convention, in Article 6 § 3 (c), emphasises the importance of the right to legal representation. However, “effective participation” in this context presupposes that the accused has a broad understanding of the nature of the trial process and of what is at stake for him or her.... It means that he or she, if necessary with the assistance of, for example, an interpreter, lawyer, social worker or friend, should be able to understand the general thrust of what is said in court. The defendant should be able to follow what is said by the prosecution witnesses and, if represented, to explain to his own lawyers his version of events, point out any statements with which he disagrees and make them aware of any facts which should be put forward in his defence...⁴⁵

36. In regular, domestic criminal proceedings, this right has often been raised in connection with accused persons who have a specific personal constraint which limits their ability to effectively participate, such as their age or a disability. However, the principle is equally applicable in respect of constraints arising from the nature of the proceedings: for example, an accused’s ability to effectively participate may be threatened where he does not have adequate time to review material filed or disclosed and provide instructions to his counsel on such material. Relevantly, the ICTY has held that requiring an accused to defend himself simultaneously in two parallel criminal trials would interfere with this right. In rejecting a Prosecution motion for severance which would have transformed a single trial into two parallel trials, it explained:

The Chamber considers that severance and the conducting of two trials could prejudice the Accused, in particular the ability to personally participate in preparing his defence for the second trial. The Chamber considers that participating in the pre-trial preparations of one case while simultaneously participating in the judgement or appeal stage of the first trial could unfairly overburden the Accused and limit his ability to participate effectively in either. The Chamber considers that the division of time and attention that would be required of the Accused to participate in his defence to both cases could render his participation less effective and also necessitate a slower pace of proceedings for both trials. Finally, the

⁴⁵ SC [Judgment](#), para. 29.

Chamber considers that the practical considerations of two trials, such as a need to potentially retain and coordinate between two Defence teams, would also complicate the Accused's ability to participate in the preparation of his defence in each trial and further slow the severed trial proceedings.⁴⁶

37. The same principle is applicable in the present scenario. Mr Thaçi is already fully consumed with his Case 06 defence. He must review large volumes of material and meet with his legal team to instruct them on every aspect of his defence. This work will only intensify during the preparation and presentation of a defence case, if one occurs.
38. A negative impact has already been seen since this case began. While the SPO has teams for each of Case 06 and Case 12 who can focus on the case they are assigned to, Mr Thaçi is compelled to simultaneously deal with two cases, two sets of evidence, two sets of litigation to engage with, and requiring him to discuss developments and provide instructions to a second legal team. These difficulties will intensify considerably if the present case proceeds to trial while Case 06 is underway. Parallel trials are likely to entail a hearing schedule which, between both trials, would allow Mr Thaçi minimal time outside of the courtroom to engage in necessary document review and meetings with his legal teams. Mr Thaçi's ability to effectively participate in his own defence would be compromised in both cases.
39. If two parallel trials proceed, the only possible way to avoid a violation of Mr Thaçi's rights of participation would be to significantly slow the pace of both trials, allowing more time for Mr Thaçi to prepare for each step in the proceedings before it occurred. However, as discussed below, this would harm the rights of Mr Thaçi's co-accused.

⁴⁶ *Mladić* [Decision on Consolidated Motion](#), para. 31.

2. Mr Thaçi's right to legal representation appropriate to the matter

40. As well as his right to personally participate in his trial, Mr Thaçi is entitled to legal representation. Under article 6 of the ECHR, this entails representation that is appropriate to the case in question, including its complexity and the volume and nature of material involved.⁴⁷

Mr Thaçi requires a legal team familiar with Case 06

41. The two cases brought against Mr Thaçi at the KSC are fundamentally inter-related. Although this case has been initiated as a separate proceeding, it concerns allegations that Case 06 orders were violated, that Case 06 information was leaked, and that contact was contemplated with Case 06 witnesses. The (highly voluminous) record of Case 06 contains material that is essential to the understanding of this case's history and context. There are now a number of overlapping matters which arise in both cases, including the protective measures granted to witnesses, the modalities for contacting witnesses of another party, the status and admissibility of material obtained by the SPO through the SIMs, and matters concerning detention and temporary release on compassionate grounds. The Pre-Trial Judge has previously recognised "the inherent link between Case 06 and the present proceedings".⁴⁸

42. The SPO has had full access to both sets of proceedings since their respective initiation. Its teams have a long-established familiarity with both cases and access to both case files. They are able to coordinate the work across both cases. In this regard, the Defence notes that Joshua Hafetz, Gaia Pergolo, Nico Baarlink, and Dirk-Jan Laman are listed as SPO staff involved in Case 12 on the KSC website.⁴⁹

⁴⁷ Öcalan [Judgment](#), para. 135.

⁴⁸ KSC-BC-2023-12/F00173/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Framework for the Handling of Confidential Information and Witness Contacts](#), 11 February 2025, Public, para. 32.

⁴⁹ <https://www.scp-ks.org/en/cases/hashim-thaci-et-al-administration-justice>, accessed on 9 April 2025.

All were previously involved in meetings with SPO witnesses in Case 06, as notified in Case 06 notes of contact. Some were involved in formal SPO interviews or preparation sessions, according to material notified in Case 06.

43. In these circumstances, equality of arms and the right to *appropriate* legal representation demand that Mr Thaçi must also be able to instruct a team that is sufficiently familiar with Case 06 *and* which has sufficient time to commit to Case 12. Otherwise, the SPO would benefit from a tactical advantage in comparison with Mr Thaçi's defence team in Case 12, to Mr Thaçi's detriment.
44. Indeed, in some respects it would be unworkable for the work on Case 12 to be done by Counsel who are not also involved in Case 06. For example, Trial Panel II (in Case 06) and the Pre-Trial Judge (in the present case) are now both regulating Mr Thaçi's detention. It is necessary to file requests in both cases if release on compassionate grounds or a change in detention conditions is sought. For steps such as these to be taken by separate legal teams would be inefficient at best, and potentially impossible given that strictly confidential material is likely to be relevant.

Mr Thaçi's right to effective legal representation cannot be ensured in parallel trials

45. Mr Thaçi's right to effective and appropriate legal representation cannot be ensured if Case 06 and Case 12 proceed in parallel. This is for two reasons.
46. The first reason is financial. Mr Thaçi's defence is privately funded. However, the financial resources available for this are not unlimited and until now have been fully utilised for the Case 06 legal team. Budgetary constraints have already resulted in reductions in that team, and Mr Thaçi's defence in Case 06 cannot withstand further cuts, particularly while investigating and considering a potential defence case. Establishing a second, entirely separate, team would require considerable additional resources, which Mr Thaçi does not have.

Managing to cover the costs of one legal team does not imply an ability to pay for two such teams simultaneously. The KSC's Legal Aid Regulations do not provide a solution to this problem, because Mr Thaçi is not indigent within the terms of that policy. However, Mr Thaçi has already committed his available funds for his Case 06 Defence. That expenditure cannot now be reduced, particularly at this critical point in the Case 06 trial.

47. The second reason concerns Mr Thaçi's need for effective representation in Case 06. As set out above, Mr Thaçi requires representation in this case from counsel who are also involved in Case 06. However, these counsels are constrained in how much time they can provide to this case while Case 06 remains in trial.
48. In the face of these constraints, the importance of filing preliminary motions has required an urgent solution. Three members of Mr Thaçi's Case 06 legal team (Counsel, Co-Counsel, and analyst) are giving part of their time to this case for now, despite an overwhelming workload in Case 06. Two of them are undertaking this additional work *pro-bono*, at the same time as continuing their existing paid work in Case 06, while a third is receiving nominal compensation for the additional work required in Case 12. The only additional team members Mr Thaçi has been able to fund are a case manager and a part-time legal consultant. These two individuals have not previously been involved in Mr Thaçi's defence teams. The other Case 06 team members are unavailable to assist, as all are needed for the significant volume of pending work on that case.
49. However, this arrangement is unsustainable. Mr Thaçi does not have the financial means to continue funding two legal teams. In addition, Counsel and Co-Counsel have significant commitments in Case 06 until the close of that case.

50. The Defence notes Counsel's obligation under Article 19(1)(d) of the Code of Conduct, recently referenced in an SPO filing,⁵⁰ to refuse representation when he or she has insufficient time available to deal with a matter diligently. Counsel and Co-Counsel assure the Pre-Trial Judge that they have given carefully consideration to their ability to commit the time required to each case, in line with their professional obligations both under the Code of Conduct and their respective national bars. Most importantly, they have sought to identify representation options which will best advance Mr Thaçi's defence in an effective and efficient way, in line with Article 22(4) of the Code of Conduct. For Mr Thaçi to instruct an entirely new team on Case 12 would be impossible for financial reasons, but would also undermine the efficacy of Mr Thaçi's defence. As set out above, the Defence requires involvement of counsel familiar with Case 06, just as the SPO does. Considering these constraints and after careful assessment they have concluded that they can contribute sufficient time to Case 12 to ensure that preliminary motions are litigated. However, beyond that point it would be extremely difficult for Mr Thaçi and his Counsel to litigate two trials at the same time. As set out above, a Case 06 defence case could occur following the summer recess this year with the Case 12 SPO case beginning at the same time.

51. However, appointing an entirely new team in the present case is not an option. Not only would this not provide Mr Thaçi with the representation appropriate in the case; it is also beyond his financial means.

3. An adjournment is required to protect Mr Thaçi's rights

52. For these reasons, the protection of Mr Thaçi's fair trial rights requires that the proceedings against him in this case be adjourned until after the conclusion of the

⁵⁰ Article 19(1)(d) of the Code of Conduct; KSC-BC-2023-12/F00133, [Consolidated Prosecution response to Thaçi Defence Request for Variation of the Time Limit for Preliminary Motions and Kilaj Joinder](#), 23 January 2025, Public, para. 5.

Case 06 trial. An adjournment would enable Mr Thaçi to devote his time and attention over the coming six to nine months to his defence in Case 06, ensuring the level of his personal participation which is required for that case. It would also enable his Case 06 legal team to focus their attentions of the same period on Case 06, and thereafter to represent Mr Thaçi on Case 12.

53. Ordering an adjournment is within the powers of a Pre-Trial Judge. Under KSC Law Article 39, a Pre-Trial Judge is responsible for management of the case until it is transmitted to the Trial Panel and may “issue any orders as may be necessary for the preparation of a fair and expeditious trial”.⁵¹
54. The requested adjournment would not be unduly lengthy. Proceedings in this case could recommence as soon as closing arguments or final submissions have been made in Case 06. That is likely to occur by late 2025 or early 2026, meaning that an adjournment would last for less than one year. This is less than the time taken between the SPO’s first filing of an indictment in this case and the eventual confirmation of an indictment.⁵² Such an adjournment is reasonable in light of the duration of this case to date and the fair trial rights that are at stake.
55. The only persons who would be disadvantaged by such an adjournment are the other accused in the present case. However, their rights could be protected by severing the portion of the case which affects Mr Thaçi, as addressed below in Section VII of this motion.

C. CONCURRENT TRIALS WOULD VIOLATE THE RIGHTS OF THE CASE 06 CO-ACCUSED

56. The Pre-Trial Judge has previously ruled that in managing the conduct of proceedings she must consider the rights of all accused.⁵³ In the present

⁵¹ KSC Law, Article 39(13).

⁵² See paragraphs 9 and 11 above.

⁵³ KSC, *Prosecutor v Januzi, Bahtijari and Haxhi Shala*, KSC-BC-2023-10/F00452, Pre-Trial Judge, [Decision on Application for Severance](#), 27 August 2024, Public, para. 40.

circumstances this should entail considering the rights of the other Case 06 accused, Messrs Veseli, Selimi and Krasniqi.

57. Should Case 06 and Case 12 proceed in parallel, hearings during any Case 06 defence evidence will need to occur on a reduced schedule. From a purely logistical point of view, regarding use of the KSC courtroom, Case 06 and Case 12 hearings could be booked in alternating blocks. However, Mr Thaçi cannot be expected to be constantly present in court. He requires time between hearings for preparation and discussions with counsel. Likewise, counsel acting in both Case 06 and this case would require time out of court.
58. At the time of these submissions, the Case 06 accused already have been in detention on remand for 4 and a half years. It is incumbent on the KSC to ensure that they are tried without undue delay. At the current pace of the Case 06 proceedings, there may be a trial judgment around mid-2026. However, if the two cases run in parallel, it can be expected that the Case 06 proceedings will finish several months later. That delay, and commensurate extension of detention, must be especially “undue” for the three accused in Case 06 who are not indicted in the present case.
59. The rights of the Case 06 accused can best be protected by adjourning the Case 12 proceedings until the closure of the Case 06 trial, to ensure that the current timeline for those proceedings remains on schedule.

VI. OVERLAPPING FINDINGS IN CASES 06 AND 12 WOULD VIOLATE MR THAÇI’S RIGHTS

60. An additional procedural issue has been raised by the SPO’s request on 15 April 2025 for Trial Panel II to admit “obstruction related materials”, gathered pursuant to the SIMs, into evidence in Case 06.⁵⁴ The SPO claims that these materials are

⁵⁴ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03120, [Prosecution motion for admission of obstruction related materials with confidential Annexes 1-3](#), 15 April 2025, Public.

relevant to Case 06 on three grounds: (a) for use in the sentencing of Mr Thaçi, Mr Veseli or Mr Selimi, in the event that one or more of them are convicted;⁵⁵ (b) for assessing the credibility of SPO witnesses by reference to what the SPO alleges to be a climate of witness intimidation;⁵⁶ (c) as circumstantial evidence of the Accused's state of mind regarding the Case 06 charges.⁵⁷

61. Mr Thaçi has requested Trial Panel II to exclude these materials from Case 06.⁵⁸

However, at the time of this motion, that question has yet to be decided by Trial Panel II. The following submissions are addressed to the situation which will arise if Trial Panel II grants the SPO's request to admit this evidence. If that happens, the possibility will arise that in its Case 06 judgment, Trial Panel II will:

- (a) make findings of fact on whether Mr Thaçi was involved in conduct likely to influence witness testimony, including through conduct which violated Case 06 orders and/or Case 06 confidentiality, and/or findings of fact regarding Mr Thaçi's knowledge and intent regarding that conduct; and
- (b) impose a sentence on Mr Thaçi which is in part attributable to those factual findings.

62. As explained below, these outcomes would mean that the Case 12 proceedings are affected by the principles of *res judicata* and *ne bis in idem*.

⁵⁵ *Ibid.*, para. 4.

⁵⁶ *Ibid.*, para. 5.

⁵⁷ *Ibid.*, para. 6.

⁵⁸ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03156-Red, Thaçi Defence Response to SPO Request for Admission of Proposed Exhibits (F03120) and Second Request for Exclusion of Materials *in limine*, 2 May 2025, Public.

A. RES JUDICATA

63. The principle of *res judicata* is well established as a general principle of international law⁵⁹ and is also applicable in Kosovan law.⁶⁰ It holds that “a judgment rendered by such a judicial body [...] has binding force between the parties to the dispute”.⁶¹
64. The principle applies in international criminal proceedings.⁶² As explained by the ICTY in *Celebici*, in criminal cases, where the prosecuting authority will usually remain consistent, the application of the principle is determined by:
- “...whether, when the previous trial of a particular individual is followed by another of the same individual, a specific matter has already been fully litigated.”⁶³
65. While there may be scope for disagreement about its application to interlocutory decisions on procedural matters, there is no doubt that it applies to trial judgments.⁶⁴ The findings in such a judgment are final and *res judicata*, subject only to appeal or via the limited mechanism of post-conviction review proceedings.⁶⁵
66. If Trial Panel II’s judgment in Case 06 precedes the Case 12 judgment and includes findings on any of the matters which fall within the Indictment in this case, those matters may become *res judicata* as between the SPO and Mr Thaçi (who are parties in both proceedings). Depending on the scope and content of Trial Panel II’s

⁵⁹ [US v Canada \(Trail Smelter Case\)](#) (1941) 3 RIAA 1905, p. 1950; PCIJ, *Interpretation of Judgments Nos 7 and 8 (Chorzów Factory)*, [Dissenting Opinion of Judge Anzilotti](#), PCIJ Reports, Series A, No. 13, 16 December 1927.

⁶⁰ See for example *ZM v TP*, GSK-KPA-A-126/2013, Supreme Court of Kosovo, KPA Appeals Panel, [Judgment](#), 15 April 2014.

⁶¹ ICJ, *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, [Advisory Opinion of July 13th, 1954](#), p. 10.

⁶² See e.g.: *Delalić et al.* [Judgement](#), para. 228; *Barayagwiza* [Decision on Reconsideration](#), para. 20; [ICC-02/17-218](#), para. 59; [ICC-01/09-01/11-313](#), para. 8; [ICC-01/13-115](#), para. 12; *Case 002/02* [Appeal Judgment](#), para. 634 *et seq.*

⁶³ *Delalić et al.* [Judgement](#), para. 228.

⁶⁴ [ICC-01/04-02/12-271-Corr](#), para. 246

⁶⁵ *Barayagwiza* [Decision on Reconsideration](#), paras 20-25.

findings, this may have a considerable impact on findings which remain available to the Case 12 Trial Panel, and therefore the appropriate conduct of the proceedings. Defence rights to expedition and judicial economy, along with inconvenience to witnesses, would all militate against holding trial proceedings on matters on which the Case 12 Trial Panel may find itself already bound.

67. For the reasons set out above in Section V, Case 12 cannot be heard before the end of the Case 06 trial without significant violations to Mr Thaçi's fair trial rights. However, even if Case 12 were expedited in an attempt to conclude before Case 06, many of the same issues would arise. Two cases would be proceeding in parallel on the very same issues. Defence witnesses may need to testify on the same matters twice, in the two separate cases.
68. Moreover, if Case 06 and Case 12 proceed in parallel with the same questions of fact *sub judice* in both cases, a risk would arise of conflicting judicial rulings in the two cases. This would not only violate Mr Thaçi's right to legal certainty, but also undermine the credibility of the KSC. It was for reasons such as these that the ICC's Trial Chamber III considered in *Bemba* that it was not "in the interests of justice" for the same matters to be litigated in parallel before two chambers.⁶⁶
69. The solution to this issue is for the cases to proceed consecutively, not concurrently. Considering that Case 06 has been underway already for more than two years, with multiple accused in detention, it should be given priority and allowed to finish. Trial Panel II is also the panel best placed to rule on any question of whether Case 06 witness testimony *did* change due to alleged interference, given its high level of familiarity with the details in that evidence and how it is relevant to the Case 06 charges.

⁶⁶ [ICC-01/05-01/08-3029](#), paras 26-27, 31.

70. The charges against Mr Thaçi in Case 12 should therefore be adjourned until following the conclusion of trial in Case 06. This would enable the trial judgment in Case 06 to be delivered and taken into account in the Case 12 judgment.

B. NON BIS IN IDEM

71. The principle of *non bis in idem* protects a person from being tried or punished twice in respect of the same offence. It is recognised in the Kosovo Constitution,⁶⁷ texts of the KSC,⁶⁸ as well as in the ECHR.⁶⁹

72. The European Court of Human Rights has clarified that the prohibition on being twice tried or punished in respect of “the same offence” refers not to the legal classification in question but to the underlying conduct. Thus, a second case will concern the “same offence” when it relates to “identical facts or facts which are substantially the same”.⁷⁰

73. The SPO has indicated its intention, in the event that Mr Thaçi is convicted in Case 06, to request that Trial Panel II increase his sentence in light of precisely the same alleged conduct for which he is charged in Case 12 (“breaching court orders, violating the secrecy of the proceedings, and/or unlawfully attempting to influence the evidence of SPO witnesses”).⁷¹ If Trial Panel II does convict and impose a sentence on Mr Thaçi in Case 06 which is in part attributable to that conduct, *non bis in idem* will preclude him from being punished a second time for the same conduct in Case 12. Caselaw of the European Court of Human Rights

⁶⁷ Kosovo Constitution, article 34.

⁶⁸ KSC Law, article 17; Rules, Rule 205.

⁶⁹ ECHR, Protocol No. 7 to the Convention for the protection of Human rights and fundamental freedoms, Article 4.

⁷⁰ *Zolotukhin* [Judgment](#), para. 82.

⁷¹ KSC, *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi*, KSC-BC-2020-06/F03120, [Prosecution motion for admission of obstruction related materials with confidential Annexes 1-3](#), 15 April 2025, Public, para. 4.

confirms that the principle of *non bis in idem* is applicable where conduct is considered as an aggravating circumstance (as opposed to a standalone offence).⁷²

74. While *non bis in idem* does not prohibit parallel criminal proceedings in respect of the same conduct, it does mandate that as soon as one case results in a final outcome, the other must be discontinued.⁷³ This means that a discontinuance of Case 12 may become necessary upon judgment in Case 06. Allowing Case 12 to continue in these circumstances is unjustifiable and inefficient. It means imposing a significant burden on Mr Thaçi, harming his ability to defend himself in Case 06, even though the Case 12 proceedings against him may eventually need to be discontinued. The impact on public funds of running two parallel proceedings in respect of the same conduct against Mr Thaçi would also be considerable.

VII. SEVERANCE IS APPROPRIATE TO PROTECT THE RIGHTS OF THE OTHER ACCUSED TO BE TRIED WITHOUT UNDUE DELAY

75. For these reasons, the protection of Mr Thaçi's fair trial rights and those of his Case 06 co-accused, requires the adjournment of the Case 12 proceedings insofar as they concern Mr Thaçi.

76. However, it is clear that adjournment of the entire Case 12 trial may cause unacceptable delays for the other Case 12 accused. The Pre-Trial Judge has previously highlighted that "the present case involves multiple Accused who are equally entitled to fair and expeditious proceedings."⁷⁴ Counsel for those accused will no doubt ably express this right themselves. The Defence for Mr Kilaj has

⁷² See for example *Gradinger Judgment*, where a first ruling that the aggravating circumstance of intoxication did not apply to the applicant meant that it was impermissible for subsequent proceedings to be brought against him for that intoxication:

⁷³ *Nykänen Judgment*, paras 49, 52.

⁷⁴ KSC-BC-2023-12/F00135, Pre-Trial Judge, [Decision on Thaçi Defence Request for Variation of the Time Limit for Preliminary Motions](#), 24 January 2025, Public, para. 19.

already stressed that Mr Kilaj is anxious for his trial to start as soon as possible and without delay.⁷⁵

77. The only course available which will protect the fair trial rights of Mr Thaçi, the other Case 06 accused, *and* the co-accused in the present case is to sever the charges against Mr Thaçi from the remainder of this case.
78. The Defence is conscious that severance has been granted neither readily nor often by international criminal tribunals. Where charges are interrelated (or, in the terminology of the ICTY texts, concern “the same transaction”), there is an evident preference for joinder.
79. Nonetheless, even in instances where charges against several accused are closely interrelated, severance has at times been granted. This has most often occurred where the deteriorating health of one accused would be likely to result in delays to trial which would be unfair to other accused.⁷⁶ While the present case does not involve health concerns, the question is in other ways analogous. Mr Thaçi finds himself uniquely constrained by factors which prevent him from participating in a trial with the expedition that the other accused require and are able to manage.
80. Indeed, Mr Thaçi’s position is in some ways more clear-cut than in a case involving illness. While health conditions impact on the ability to stand trial to varying degrees, it is inconceivable that an accused who had been charged alone would be subjected to two criminal trials at the same time. An accused charged jointly maintains the same rights as a single accused person.⁷⁷ He should likewise not be subjected to concurrent trials.

⁷⁵ KSC-BC-2023-12/F00231, Kilaj observations on “Prosecution submissions pursuant to F00100” (F00226), Confidential, para. 3, 20 March 2025.

⁷⁶ See for example: *Brđanin and Talić* [Decision on Separation](#), especially at para. 26; *Strugar and Kovacević* [Decision on Separation](#); *Popović et al.* [Decision on Severance](#).

⁷⁷ *Brđanin and Talić* [Decision on Separation](#), para. 20.

81. The fact that the charges against Mr Thači and his Case 12 co-accused are interconnected is not of itself conclusive. International criminal law is replete with examples of cases where individuals have been tried separately for related conduct. This occurs routinely where co-indicted suspects are arrested at different times. For example, at the ICTY, Karadžić, Mladić, Slobodan Milošević, Šešelj, and others were tried individually in respect of allegations that they had participated in joint criminal enterprises with each other and/or others.⁷⁸ These were large cases, with considerable overlap of witness testimony, but were permitted to proceed separately.
82. In the present case there are likely to be few witnesses who would need to be recalled if severance is ordered. The SPO has preliminarily referenced a possible three witnesses.⁷⁹ Given the nature and scope of the case, it appears unlikely that this testimony would be lengthy in nature. This is especially so given that the SPO routinely tenders the prior statements of live witnesses through Rule 154, which narrows the extent of their live testimony. The Defence acknowledges that some inconvenience would be caused to witnesses who are asked to testify twice as a result of a severance. Nonetheless, this inconvenience is patently proportionate when considered against the harm that would be done to Mr Thači if he is forced to face two concurrent criminal trials; or the harm done to Mr Thači's co-accused if their trials are delayed.

⁷⁸ See Mladić [Fourth Amended Indictment](#), Annex 1, especially paras 10, 15; Karadžić [Indictment](#), especially paras 11, 16; Slobodan Milošević [Amended Croatia Indictment](#), especially para. 7; Slobodan Milošević [Amended Bosnia Indictment](#), Annex A, especially para. 7; Šešelj Third amended Indictment, especially para. 8(a).

⁷⁹ KSC-BC-2023-12/F00079/RED, [Public redacted version of 'Prosecution submissions for First Status Conference'](#), 12 December 2024, Public, para. 11.

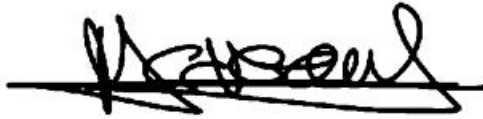
VIII. CONCLUSION

83. For the above reasons, the Defence respectfully requests that the Pre-Trial Judge:

- (a) Sever the Indictment as between Mr Thaçi and the other accused;
- (b) Adjourn proceedings against Mr Thaçi until Trial Panel II declares Case 06 closed under Rule 136.

[Word count: 8410 words]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sophie Menegon', written over a horizontal line.

Sophie Menegon

Counsel for Hashim Thaçi

Wednesday, 7 May 2025

Paris, France