



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2023-12  
**The Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi**

**Before:** Pre-Trial Judge  
Judge Marjorie Masselot

**Registrar:** Fidelma Donlon

**Date:** 16 September 2025

**Language:** English

**Classification:** Public

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### Decision on the Remaining Calendar of the Pre-Trial Proceedings

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**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 82(5), 95(2), (3), (4)(a) and (5), 98(1)(e)(ii) and 109(c) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chamber ("Rules"), hereby renders the following order.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 29 November 2024, the Pre-Trial Judge confirmed, in part, the indictment against Hashim Thaçi ("Mr Thaçi"), Bashkim Smakaj ("Mr Smakaj"), Isni Kilaj ("Mr Kilaj"), Fadil Fazliu ("Mr Fazliu") and Hajredin Kuçi ("Mr Kuçi") (collectively "Accused" and/or the "Defence") for offences against the administration of justice and public order – specifically, attempted obstruction of official persons in performing official duties, violating the secrecy of proceedings and/or contempt of court ("Confirmation Decision").<sup>2</sup>

2. On 16 April 2025, following the Pre-Trial Judge's decision amending<sup>3</sup> the Confirmation Decision by adding a mode of liability,<sup>4</sup> the Specialist Prosecutor's Office ("SPO") filed the amended confirmed indictment ("Amended Confirmed Indictment").<sup>5</sup>

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<sup>1</sup> KSC-BC-2023-12, F00015, President, *Decision Assigning a Pre-Trial Judge*, 6 June 2024, public.

<sup>2</sup> KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, confidential, para. 313. A public redacted version was filed on 12 February 2025, [F00036/RED](#).

<sup>3</sup> On 12 February 2025, the Specialist Prosecutor appealed the Confirmation Decision, with leave of the Pre-Trial Judge, and on 3 April 2025, the Court of Appeals Panel rendered its decision on the Specialist Prosecutor's appeal and remanded one matter to the Pre-Trial Judge for further consideration, see KSC-BC-2023-12, F00149, Pre-Trial Judge, [Decision on Specialist Prosecutor's Request for Leave to Appeal the "Decision on the Confirmation of the Indictment"](#), 30 January 2025, public; IA002/F00012, Court of Appeals Panel, *Decision on the Specialist Prosecutor's Office's Appeal Against the Decision on the Confirmation of the Indictment*, 3 April 2025, confidential. A public redacted version of the main filing was submitted on 14 February 2025, [IA002/F00012/RED](#).

<sup>4</sup> 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.

<sup>5</sup> KSC-BC-2023-12, F00264, Specialist Prosecutor, [Submission of Amended Confirmed Indictment](#), 16 April 2025, public, with Annex 1, confidential (containing the confidential version of the Amended

3. On 25 July 2025, the Pre-Trial Judge ordered the SPO to file its Pre-Trial Brief, lists of witnesses and exhibits by Friday, 19 September 2025, and informed the Defence that she intends to set the time limit for their respective Pre-Trial Briefs, if they so wish, and other information as envisaged by Rule 95(5) of the Rules, on Monday, 20 October 2025.<sup>6</sup>

4. On 25 August 2025, following the Pre-Trial Judge's order, the SPO filed its submissions providing further information about the status of disclosure and review of material seized from the Accused.<sup>7</sup>

5. On 28<sup>8</sup> and 29 August 2025,<sup>9</sup> following the Pre-Trial Judge's order, the Defence for Messrs Smakaj, Kilaj, Fazliu and Kuçi notified the Pre-Trial Judge of their intention to file Pre-Trial Briefs and did not object to the proposed date.<sup>10</sup> The Thaçi Defence submits that: (i) it expects to file a limited Pre-Trial Brief;<sup>11</sup> (ii) it anticipates requiring a period of around six (6) weeks following the receipt of the SPO Pre-Trial Brief;<sup>12</sup> (iii) this time period is an estimate and (iv) it will be in a position

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Confirmed Indictment), and [Annex 2](#), public (containing the public redacted version of the Amended Confirmed Indictment).

<sup>6</sup> KSC-BC-2023-12, F00395, Pre-Trial Judge, [Order Relating to the Calendar for the Remaining Pre-Trial Proceedings](#) ("Order"), 25 July 2025, public, paras 16-17. The Pre-Trial Judge also ordered the Parties to provide her with certain information deemed necessary to ensure an efficient and streamlined organization of the remaining pretrial proceedings and the swift transmission of the case file to a Trial Panel.

<sup>7</sup> KSC-BC-2023-12, F00420, Specialist Prosecutor, *Prosecution Submissions Pursuant to Order F00395 ("SPO Submissions")*, 25 August 2025, confidential. A public redacted version was filed on 5 September 2025, F00420/RED.

<sup>8</sup> KSC-BC-2023-12, F00424, Kilaj Defence, *Kilaj Submissions Further to Order F00395 ("Kilaj Submissions")*, 28 August 2025, public; F00426, Smakaj Defence, *Smakaj Submissions Pursuant to Order F00395 ("Smakaj Submissions")*, 28 August 2025, confidential.

<sup>9</sup> KSC-BC-2023-12, F00425, Fazliu Defence, *Fazliu Defence Submissions Pursuant to Order F00395 ("Fazliu Submission")*, 29 August 2025, public; F00427, Thaçi Defence, *Thaçi Defence Submissions on the Pre-Trial Calendar ("Thaçi Submissions")*, 29 August 2025, confidential. A corrected version was filed on 3 September 2025, F00427/COR and a public redacted version of the corrected filing was filed on the same date, F00427/COR/RED; F00429, Kuçi Defence, *Kuçi Submissions Pursuant to Order F00395 ("Kuçi Submissions")*, 29 August 2025, public.

<sup>10</sup> Smakaj Submissions, para. 6, Kilaj Submissions, para. 8, Fazliu Submissions, para. 7, Kuçi Submissions, para. 6.

<sup>11</sup> Thaçi Submissions, para. 16.

<sup>12</sup> Thaçi Submissions, para. 17.

to make a request as to the time required within a few days of receiving the SPO Pre-Trial Brief.<sup>13</sup> According to their respective submissions, none of the Accused intends to offer a defence of alibi, at this stage.<sup>14</sup> The Defence for Messrs Fazliu and Kuçi indicate they intend to invoke other grounds excluding criminal responsibility.<sup>15</sup> The Defence for Messrs Thaçi, Kilaj and Smakaj indicate that they do not intend to rely on other grounds excluding criminal responsibility.<sup>16</sup> The Thaçi Defence also submits that in light of the anticipated schedule for the remainder of the proceedings in *The Specialist Prosecutor v Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi* (KSC-BC-2020-06) ("Case 06"), the case cannot be transmitted until the appeals proceedings on the two preliminary motions are resolved and expects to be ready for trial on 2 March 2026.<sup>17</sup>

## II. APPLICABLE LAW

6. Pursuant to Article 39(13) of the Law, the Pre-Trial Judge may, where necessary, on her own motion, issue any order as may be necessary for the preparation of a fair and expeditious trial. Pursuant to Rule 95(2) of the Rules, the Pre-Trial Judge shall ensure that pre-trial proceedings are not unduly delayed and shall take all necessary measures for the expeditious preparation of the case for trial.

7. Pursuant to Rule 95(2)(j) of the Rules, the Pre-Trial Judge shall set a target date for the readiness of the case for trial.

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<sup>13</sup> Thaçi Submissions, para. 18.

<sup>14</sup> Kilaj Submissions, para. 7; Smakaj Submissions, para. 5; Fazliu Submissions, paras 5-6 (The Pre-Trial Judge understands from paragraphs 5-6 of the Fazliu Submissions that the Fazliu Defence does not intend to present a defence of alibi); Thaçi Submissions, para. 15; Kuçi Submissions, para. 5.

<sup>15</sup> Fazliu Submissions, para. 5; Kuçi Submissions, para. 5.

<sup>16</sup> Thaçi Submissions, para. 15; Kilaj Submissions, para. 7; Smakaj Submissions, para. 5. The Pre-Trial Judge observes that both the Thaçi Defence and Kilaj Defence reserve their right to change their position once the SPO fully discharges its disclosure obligations and files its Pre-Trial Brief.

<sup>17</sup> Thaçi Submissions, paras 19-20.

8. Pursuant to Rule 95(3) of the Rules, after having heard the Parties, the Pre-Trial Judge shall record the points of agreement on matters of law and fact.

9. Pursuant to Rule 95(4)(a) of the Rules, the Specialist Prosecutor's Pre-Trial Brief shall include any admissions by the Defence, as well as statement of matters that are not in dispute.

10. Pursuant to Rule 95(5) of the Rules, after submission by the Specialist Prosecutor of the items under Rule 95(4) of the Rules, the Pre-Trial Judge shall invite the Defence to file a Pre-Trial Brief within a set time limit, indicating (a) in general terms, the nature of the Accused's defence; (b) the charges and matters which the Accused disputes, by reference to particular paragraphs in the Specialist Prosecutor's Pre-Trial Brief, and the reasons why the Accused dispute them; (c) a list of potential witnesses the Defence intends to call; in relation to each witness, the Defence shall specify to which particular relevant issue the evidence relates. Moreover, within a time limit set by the Pre-Trial Judge, the Defence shall notify the SPO of its intent to offer a defence of alibi or any other grounds excluding criminal responsibility.

11. Pursuant to Rule 98(1) of the Rules, after receiving the filings from the Specialist Prosecutor and the Defence pursuant to Rules 95(4) and (5), and 97 of the Rules, and within thirty (30) days of any final decision on preliminary motions, the Pre-Trial Judge shall transmit to the Trial Panel a complete case file consisting of, *inter alia*, a handover document summarising, among others, the points of agreement.

12. Pursuant to Rule 109(c) of the Rules, a Party shall categorise the information in accordance with the charges in the indictment, with specific reference to the underlying crimes, contextual elements of the crimes, the alleged conduct of the Accused, or where applicable, evidence to be presented by the Specialist Prosecutor.

13. Pursuant to Rule 82(5) of the Rules, where the basis for a classification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. A Panel may also reclassify a filing upon request by any other participant or *proprio motu*.

### III. DISCUSSION

#### A. DEFENCE PRE-TRIAL BRIEF AND OTHER INFORMATION DEADLINE

14. The Pre-Trial Judge pays heed to the fact that, for the Accused's seized phones, the SPO has, where applicable, disclosed the evidence upon which it intends to rely at trial under Rules 102(1)(a) and 102(1)(b) of the Rules.<sup>18</sup> The Pre-Trial Judge further notes that a small amount of review of material seized from the Accused remains pending, much of which depends on the completion of work by the External Forensic Company and the Independent Counsel's privilege review, but that the SPO (i) does not foresee the remaining review to impact the swift conduct of the proceedings; and (ii) will continue to diligently review and disclose the material as it is received.<sup>19</sup> The Pre-Trial Judge further notes that several items amongst the limited number of items for which the SPO may seek permission to disclose under Rule 102(1)(b) of the Rules, have already been notified to the Defence through their inclusion on the SPO's Fourth Rule 102(3) Notice.<sup>20</sup> Considering, in addition, the limited set of additional searches requested for the material seized from Mr Taçi, and the prompt execution and review of Mr Kuçi's remaining seized material by Independent Counsel – both sets of material which the two Accused have intimate knowledge of –, the Pre-Trial Judge is of the view that the disclosure of the evidence in this case is on track and does not anticipate

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<sup>18</sup> SPO Submissions, para. 5

<sup>19</sup> SPO Submissions, para. 2.

<sup>20</sup> SPO Submissions, para. 24.

any significant delay in the proceedings that would impact the deadline for the Defence's Pre-Trial Briefs.

15. Further, the SPO will submit on 19 September 2025 its Pre-Trial Brief, which sets out for each charge a summary of the evidence which the SPO intends to present regarding the commission of the alleged offences and modes of liability of the Accused.<sup>21</sup> Together with the Pre-Trial Brief, the Defence will also receive the lists of witnesses and exhibits.<sup>22</sup> At that point, such evidence will have been disclosed to the Defence in accordance with the Pre-Trial Judge's rulings or the Specialist Chambers' legal framework.<sup>23</sup> It is also recalled that the Accused have been informed of the charges and the evidence that underpins the Confirmation Decision and the confirmed Amended Indictment for Mr Taçi.<sup>24</sup> The Pre-Trial Judge also recalls that the present case is of comparatively limited factual and legal complexity, involving alleged offences under Article 15(2) of the Law of limited temporal and geographical scope.<sup>25</sup> Notably, and contrary to what the Defence for Mr Taçi alleges,<sup>26</sup> the scope of the charges, as set out in the Amended Confirmed Indictment, is clear and will not change until trial.<sup>27</sup> In this regard, the Pre-Trial Judge notes the Taçi Defence argument that "crucial aspects of the SPO case are

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<sup>21</sup> Rule 95(4)(a) of the Rules.

<sup>22</sup> Rule 95(4)(b) and (c) of the Rules.

<sup>23</sup> This is without prejudice to any requests to amend the witness and exhibit lists, in accordance with Rule 118(2) of the Rules.

<sup>24</sup> KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, confidential. A public redacted version was issued on 12 February 2025, [F00036/RED](#); F00017/A02, Specialist Prosecutor, *Annex 2 of Submission of Further Amended Indictment for Confirmation*, 12 November 2024, confidential (containing the Rule 86(3) Outline). The Pre-Trial Judge recalls that on 16 April 2025, she confirmed *vis-à-vis* Mr Taçi, an additional mode of liability, following a decision of the Court of Appeals Panel, which did not require any additional material under Rule 86(3) of the Rules.

<sup>25</sup> KSC-BC-2023-12, F00100, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* ("Framework Decision"), 20 December 2024, public, para.82.

<sup>26</sup> Taçi Submissions, para. 6.

<sup>27</sup> The Pre-Trial Judge recalls that the preliminary motion alleging defects of the indictment was rejected, see KSC-BC-2023-12, F00347, Pre-Trial Judge, *Decision on Preliminary Motions Alleging Defects in the Indictment*, 24 June 2025, public. A related request seeking leave to appeal this decision was equally denied, see F00392, Pre-Trial Judge, *Decision on the Taçi and Fazliu Requests for Certification to Appeal the "Decision on Preliminary Motions Alleging Defects in the Indictment"*, 24 July 2025, public.

not yet known to the Defence and are expected only to become known on receipt of the SPO's pre-trial brief, exhibit list and witness list".<sup>28</sup> Yet, the Thaçi Defence does not substantiate which "crucial" aspects remain unclear, or justify why it requires the SPO Pre-Trial Brief and lists of witnesses and exhibits in order to be in a position to make a specific request as to the time required to submit a Pre-Trial Brief.<sup>29</sup> For these reasons, the Pre-Trial Judge finds the arguments of Mr Thaçi unpersuasive and considers that, when invited to submit a Pre-Trial Brief, the Defence is in possession of the essential elements of the SPO case.

16. Lastly, the Pre-Trial Judge notes that the Defence for Messrs Smakaj, Kilaj, Fazliu and Kuçi indicated to be prepared to submit a Pre-Trial Brief at the proposed date.<sup>30</sup> In this context, the Pre-Trial Judge recalls that in its Pre-Trial Brief the Defence is only called upon to set forth in general terms the nature of the Accused's defence, as envisaged under Rule 95(5) of the Rules. In the current circumstances, the Pre-Trial Judge considers that the Defence is in a position to do so, if it so wishes.

17. In addition to the above considerations and to ensure an efficient organisation of the remaining pre-trial proceedings and swift transmission of the case file to a Trial Panel, the Pre-Trial finds it appropriate to invite the Defence to submit their respective Pre-Trial Briefs by **Monday, 20 October 2025**, indicating (i) in general terms, the nature of the Accused's defence; (ii) the charges and matters which the Accused disputes, by reference to particular paragraphs in the SPO's Pre-Trial Brief, and the reasons why the Accused disputes them; and (iii) a list of potential witnesses the Defence intends to call, without prejudice to any subsequent amendment of filing thereof. In relation to each witness, the Defence shall specify to which particular relevant issue the evidence relates.

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<sup>28</sup> Thaçi Submissions, para. 17.

<sup>29</sup> Thaçi Submissions, para. 18.

<sup>30</sup> See paragraph 4 above.

18. At the same time, the Pre-Trial Judge invites the Defence to notify the SPO of their intent to invoke any other grounds excluding criminal responsibility, as envisaged by Rule 95(5) of the Rules, by **Monday, 20 October 2025**.<sup>31</sup>

B. POINTS OF AGREEMENT ON MATTERS OF LAW AND FACT

19. The Pre-Trial Judge takes note of the SPO's submissions that it communicated to the Defence a list of proposed agreed matters of fact and law, and that the Defence aims to submit a joint response after the filing of the SPO's Pre-Trial Brief.<sup>32</sup> To ensure that progress is made for the transmission of the case, the Pre-Trial Judge invites the Parties to liaise, if they have not done so, and orders the SPO to provide her with any points of agreement on matters of law and fact, at the latest by **Monday, 30 September 2025**, with a filing on the record.

C. RULE 109(C) CHART

20. The Pre-Trial Judge reminds the Parties of their obligation to file their Rule 109(c) charts within fifteen (15) days from the filing of their respective Pre-Trial Briefs.<sup>33</sup>

D. TENTATIVE DATE FOR THE TRANSMISSION OF THE CASE

21. With regard to the target date for the transmission of the case file to a Trial Panel, the Pre-Trial Judge is of the view that the anticipated schedule for the remainder of the proceedings in Case 06, as conceived by the *Thaçi* Defence,<sup>34</sup> cannot determine the pace of this case, which includes also four other accused, unrelated to Case 06, who have a right to an expeditious trial. Having weighed all

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<sup>31</sup> The Pre-Trial Judge takes note of the fact that none of the Accused intends to offer a defence of alibi, at this stage, and that the Defence for Messrs Fazliu and Kuçi indicate they intend to invoke other grounds excluding criminal responsibility. For this reason, the Pre-Trial Judge will only set the deadline in relation to Defence's obligation to notify the Specialist Prosecutor of any other grounds excluding criminal responsibility

<sup>32</sup> SPO Submissions, paras 21-22.

<sup>33</sup> Framework Decision, para. 82; *See also* F00153, Pre-Trial Judge, *Order on the Adoption of the Rule 109(c) Chart*, 5 February 2025.

<sup>34</sup> *Thaçi* Submissions, para. 20.

arguments, the Pre-Trial Judge informs the Parties that she intends to transmit the case to a Trial Panel in the first half of November 2025, in the event the decisions of the Court of Appeals Panel on the pending appeals relating to pre-trial motions, allow for such transfer.

#### IV. CLASSIFICATION OF FILING

22. The Pre-Trial Judge notes that the submissions of the Smakaj Defence (F00426) were filed confidential. In order to conform with the principle of publicity, the Pre-Trial Judge orders the Smakaj Defence to request the filing's reclassification as public or to submit public redacted version by no later than **Tuesday, 16 September 2025**.

#### V. DISPOSITION

23. For the above reasons, the Pre-Trial Judge hereby:

- (a) **INVITES** the Defence to submit their Pre-Trial Briefs, as envisaged by Rule 95(5) of the Rules, by **Monday, 20 October 2025**;
- (b) **INVITES** the Defence to notify the SPO of their intent to invoke any grounds excluding criminal responsibility, as envisaged by Rule 95(5) of the Rules, by **Monday, 20 October 2025**;
- (c) **ORDERS** the SPO to provide her with any points of agreement on matters of law and fact, as envisaged by Rule 95(3) of the Rules, by **Monday, 30 September 2025**, with a filing on the record;
- (d) **REMINDS** the Parties of their obligation to file their Rule 109(c) charts within fifteen (15) days from the filing of their respective Pre-Trial Briefs;
- (e) **INFORMS** the Parties that she intends to transmit the case to a Trial Panel in the first half of November 2025; and

- (f) **ORDERS** the Smakaj Defence to submit a public redacted version of its respective filing (F00426) or a request for it to be reclassified as public by **Friday, 19 September 2025**.



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**Judge Marjorie Masselot**  
**Pre-Trial Judge**

Dated this Tuesday, 16 September 2025

At The Hague, the Netherland