



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA 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:** 12 November 2025

**Language:** English

**Classification:** Public

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**Decision Transmitting the Case File to Single Trial Judge**

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**Single Trial Judge**

Judge Christopher Gosnell

**Specialist Counsel for Hashim Thaçi**

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**Specialist Prosecutor**

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**Specialist Counsel for Bashkim Smakaj**

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**Specialist Counsel for Fadil Fazliu**

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**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39 of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 95(2) and 98(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues this decision.

## 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") ("Confirmation Decision").<sup>2</sup> On the same day, the Pre-Trial Judge also issued arrest warrants for Messrs Thaçi, Smakaj, Kilaj and Fazliu, and a summons to appear for Mr Kuçi.<sup>3</sup>

2. On 5 December 2024, Messrs Smakaj, Kilaj and Fazliu were arrested in Kosovo.<sup>4</sup> On the same day, the Specialist Prosecutor's Office ("SPO") served the summons to appear on Mr Kuçi,<sup>5</sup> and served the arrest warrant on Mr Thaçi in the Detention Facilities of the Specialist Chambers ("SC").<sup>6</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> KSC-BC-2023-12, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters* ("Decision on Arrest and Summons"), 29 November 2024, confidential, with Annexes 1-8, strictly confidential and *ex parte*. A public redacted version of the decision was issued on 19 December 2024, [F00037/RED](#).

<sup>4</sup> KSC-BC-2023-12, F00042, Registrar, [Notification of Arrest of Bashkim Smakaj Pursuant to Rule 55\(4\)](#), 5 December 2024, public; F00043, Registrar, [Notification of Arrest of Isni Kilaj Pursuant to Rule 55\(4\)](#), 5 December 2024, public; F00045, Registrar, [Notification of Arrest of Fadil Fazliu Pursuant to Rule 55\(4\)](#), 5 December 2024, public.

<sup>5</sup> KSC-BC-2023-12, F00046, Registrar, [Notification of Service of Summons to Appear on Hajredin Kuçi](#), 5 December 2024, public.

<sup>6</sup> KSC-BC-2023-12, F00048, Registrar, [Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55\(4\)](#), 5 December 2024, public.

3. On 6 December 2024, Messrs Smakaj, Kilaj and Fazliu were transferred to the SC Detention Facilities,<sup>7</sup> as ordered by the Pre-Trial Judge.<sup>8</sup>
4. On 3 April 2025, having granted the SPO leave to appeal the Confirmation Decision,<sup>9</sup> the Court of Appeals Panel rendered its decision on the SPO's appeal and remanded one matter to the Pre-Trial Judge for further consideration.<sup>10</sup>
5. On 14 April 2025, the Pre-Trial Judge amended the Confirmation Decision following the decision of the Court of Appeals Panel, ordered the SPO to file an amended confirmed indictment, and set the date for the Defence to lodge preliminary motions.<sup>11</sup>
6. On 16 April 2025, the SPO filed the amended confirmed indictment ("Amended Confirmed Indictment").<sup>12</sup>
7. On 19 June 2025, the Pre-Trial Judge rejected the Defence for Mr Thaçi ("Thaçi Defence") preliminary motion on jurisdiction ("Decision on Preliminary Motion on Jurisdiction").<sup>13</sup>

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<sup>7</sup> KSC-BC-2023-12, F00056, Registrar, [Notification of Reception of Isni Kilaj in the Detention Facilities of the Specialist Chambers](#), 6 December 2024, public, with Annex 1, strictly confidential and *ex parte*; F00057, Registrar, [Notification of Reception of Fadil Fazliu in the Detention Facilities of the Specialist Chambers](#), 6 December 2024, public, with Annex 1, strictly confidential and *ex parte*; F00058, Registrar, [Notification of Reception of Bashkim Smakaj in the Detention Facilities of the Specialist Chambers](#), 6 December 2024, public, with Annex 1, strictly confidential and *ex parte*.

<sup>8</sup> See Decision on Arrest and Summons, paras 106-108.

<sup>9</sup> 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/F00002, Specialist Prosecutor, *Prosecution Appeal Against the "Decision on the Confirmation of the Indictment"* (F00036), 12 February 2025, confidential, with Annexes [1](#) and [2](#), public. A public redacted version of the main filing was filed on 14 February 2025, [IA002/F00002/RED](#).

<sup>10</sup> KSC-BC-2023-12, 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 was filed on the same day, [IA002/F00012/RED](#).

<sup>11</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>12</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 Confirmed Indictment), and [Annex 2](#), public (containing the public redacted version of the Amended Confirmed Indictment).

<sup>13</sup> KSC-BC-2023-12, F00343, Pre-Trial Judge, [Decision on the Thaçi Defence Preliminary Motion on Jurisdiction](#), 19 June 2025, public.

8. On 24 June 2025, the Pre-Trial Judge rejected preliminary motions alleging defects in the Amended Confirmed Indictment filed by the Thaçi Defence and the Defence for Mr Fazliu (“Fazliu Defence”) (“Decision on Preliminary Motions Alleging Defects in the Indictment”).<sup>14</sup>

9. On 30 June 2025, the Pre-Trial Judge rejected the Thaçi Defence preliminary motion requesting severance of the Amended Confirmed Indictment and adjournment of proceedings concerning Mr Thaçi (“Decision on Preliminary Motions for Adjournment and Severance of the Proceedings”).<sup>15</sup> In the same decision, she also rejected the joint preliminary motion requesting severance of the indictment submitted by the Defence for Mr Smakaj (“Smakaj Defence”), the Defence for Mr Kilaj (“Kilaj Defence”), the Fazliu Defence and the Defence for Mr Kuçi (“Kuçi Defence”).<sup>16</sup>

10. On 23 July 2025, the Pre-Trial Judge partially certified the Thaçi Defence request for leave to appeal the Decision on Preliminary Motion on Jurisdiction.<sup>17</sup> On the same day, the Pre-Trial Judge also certified the Thaçi Defence request for leave to appeal the Decision on Preliminary Motions for Adjournment and Severance of the Proceedings.<sup>18</sup>

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<sup>14</sup> KSC-BC-2023-12, F00347, Pre-Trial Judge, [Decision on Preliminary Motions Alleging Defects in the Indictment](#), 24 June 2025, public.

<sup>15</sup> KSC-BC-2023-12, F00354, Pre-Trial Judge, *Decision on Preliminary Motions for Adjournment and Severance of the Proceedings*, 30 June 2025, confidential, para. 77(a). A public redacted version was filed on 1 July 2025, [F00354/RED](#).

<sup>16</sup> See Decision on Preliminary Motions for Adjournment and Severance of the Proceedings, para. 77(b).

<sup>17</sup> KSC-BC-2023-12, F00391, Pre-Trial Judge, [Decision on the Thaçi Defence Request for Certification to Appeal the “Decision on the Thaçi Defence Preliminary Motion on Jurisdiction”](#), 23 July 2025, public.

<sup>18</sup> KSC-BC-2023-12, F00390, Pre-Trial Judge, *Decision on the Thaçi Defence Request for Leave to Appeal the “Decision on Preliminary Motions for Adjournment and Severance of the Proceedings”*, 23 July 2025, confidential. A public redacted version was filed on the same day, [F00390/RED](#).

11. On 24 July 2025, the Pre-Trial Judge rejected the Thaçi Defence and Fazliu Defence requests for certification to appeal the Decision on Preliminary Motions Alleging Defects in the Indictment.<sup>19</sup>
12. On 16 September 2025, the Pre-Trial Judge, *inter alia*, (i) invited the Defence to submit their respective Pre-Trial Briefs and notify the SPO of their intent to invoke any grounds excluding criminal responsibility by 20 October 2025, and (ii) informed the Parties that the transmission of the case file to the Trial Panel is anticipated to take place in the first half of November 2025.<sup>20</sup>
13. On 19 September 2025, the SPO filed its Pre-Trial Brief, together with, *inter alia*, a list of witnesses and a list of exhibits.<sup>21</sup>
14. On 17 October 2025, the Pre-Trial Judge rejected the Kilaj Defence request, joined by the Thaçi Defence and the Kuçi Defence, to vary the time limit for filing the Defence Pre-Trial Briefs.<sup>22</sup>
15. On 19 and 20 October 2025, the Smakaj Defence, the Fazliu Defence and the Thaçi Defence filed their respective Pre-Trial Briefs.<sup>23</sup>

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<sup>19</sup> KSC-BC-2023-12, F00392, Pre-Trial Judge, [Decision on the Thaçi and Fazliu Requests for Certification to Appeal the "Decision on Preliminary Motions Alleging Defects in the Indictment"](#), 24 July 2025, public.

<sup>20</sup> KSC-BC-2023-12, F00453, Pre-Trial Judge, [Decision on the Remaining Calendar of the Pre-Trial Proceedings](#), 16 September 2025, public, para. 23(a), (b) and (e).

<sup>21</sup> See KSC-BC-2023-12, F00459, Specialist Prosecutor, *Prosecution Submission of Pre-Trial Brief, Witness and Exhibit Lists*, 19 September 2025, public, with Annexes 1-5, confidential. A corrected version of the SPO Pre-Trial Brief, together with confidential Annexes 1-5, was filed on 26 September 2025, F00467. The corrected version of the Pre-Trial Brief, together with confidential Annexes 1-5, were re-submitted on 6 October 2025 detailing in an explanatory note the corrections made to the SPO Pre-Trial Brief and Annex 4 (Exhibit List), F00459/COR. A public redacted version of the Pre-Trial Brief was submitted on 7 October 2025, F00489, with Annex 1, public.

<sup>22</sup> KSC-BC-2023-12, F00512, Pre-Trial Judge, [Decision on Kilaj Request for Extension of Time to Submit Defence Pre-Trial Brief](#), 17 October 2025, public.

<sup>23</sup> KSC-BC-2023-12, F00513, Smakaj Defence, *Smakaj Pre-Trial Brief in Accordance with Rule 95(5)*, 19 October 2025, confidential; F00517, Fazliu Defence, *Fazliu Pre-Trial Brief*, 20 October 2025, confidential. A public redacted version was filed on the same day, F00517/RED; F00518, Thaçi Defence, *Thaçi Defence Pre-Trial Brief*, 20 October 2025, confidential. A public redacted version was filed on 23 October 2025, F00518/RED.

16. On 28 October 2025, the Court of Appeals Panel denied two appeals by the Thaçi Defence against the Pre-Trial Judge's Decision on Preliminary Motion on Jurisdiction and Decision on Preliminary Motions for Adjournment and Severance of the Proceedings ("Decision on Appeals against Thaçi Defence Preliminary Motions").<sup>24</sup>

17. On 3 November 2025, the Thaçi Defence filed a notice to inform the Pre-Trial Judge of its intention to make a referral to the Specialist Chamber of the Constitutional Court pursuant to Article 49(3) of the Law ("Thaçi Defence Notice of Intention to Make an Article 49 Referral" or "Notice").<sup>25</sup>

18. On 11 November 2025, pursuant to Rule 98(3) of the Rules, the Pre-Trial Judge notified the President that the case will be ready for transmission to the Trial Panel on Wednesday, 12 November 2025.<sup>26</sup>

19. On 12 November 2025, the President issued a decision assigning Judge Christopher Gosnell as Single Trial Judge upon transmission of the case file.<sup>27</sup>

## II. APPLICABLE LAW

20. Pursuant to Article 39 of the Law, the Pre-Trial Judge shall make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.

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<sup>24</sup> KSC-BC-2023-12, IA006, F00009, Court of Appeals Panel, *Decision on Appeals Against "Decision on the Thaçi Defence Preliminary Motion on Jurisdiction" and "Decision on Preliminary Motions for Adjournment and Severance of the Proceedings"*, 28 October 2025, public.

<sup>25</sup> KSC-BC-2023-12, F00535, Thaçi Defence, *Thaçi Defence Notice of Intention to Make an Article 49 Referral*, 3 November 2025, public.

<sup>26</sup> KSC-BC-2023-12, F00541, Pre-Trial Judge, *Notification Pursuant to Rule 98(3) of the Rules of Procedure and Evidence*, 11 November 2025, public.

<sup>27</sup> KSC-BC-2023-12, F00543, President, *Decision Assigning a Single Trial Judge*, 12 November 2025, public.

21. Pursuant to Rule 95(2) of the Rules, the Pre-Trial Judge shall ensure that the proceedings are not unduly delayed and shall take all necessary measures for the expeditious preparation of the case for trial.

22. Pursuant to Pursuant to Rule 98(1) of the Rules, after receiving the SPO and the Defence respective Pre-Trial Briefs, lists of witnesses and lists of exhibits, as stipulated in Rule 95(4) and (5) 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:

- (a) The indictment as confirmed;
- (b) All filings and material submitted through the electronic court management system;
- (c) Any evidentiary material received not subject to [Rule 98(1)(b)];
- (d) Any other correspondence with respect to the case not filed with the Court Management Unit;
- (e) A Handover Document summarising:
  - (i) the arguments of the Parties and, where applicable, Victims' Counsel on the facts and the applicable law;
  - (ii) the points of agreement;
  - (iii) a list of the orders and decisions rendered by the Pre-Trial Judge;
  - (iv) the evidentiary material produced by each Party;
  - (v) suggestions as to the number and relevance of the witnesses to be called;
  - (vi) the questions of fact and law that are in dispute;
  - (vii) the state of advancement of the disclosure process;
  - (viii) all meetings with the Parties; and
  - (ix) any other matter that remained unresolved;
- (f) Any application and decision concerning disclosure; and
- (g) Any other material relevant to the case.



23. Pursuant to Rule 98(2) of the Rules, the transmission of the case file shall be completed by means of electronic access.

### III. DISCUSSION

24. The Pre-Trial Judge finds that all necessary procedural steps have been taken, to the extent feasible at this stage, in order to consider case file KSC-BC-2023-12 complete.

25. Further, notwithstanding the Thaçi Defence Notice of Intention to Make an Article 49 Referral Notice, the Pre-Trial Judge notes that, in light of the Court of Appeals Panel's Decision on Appeals against Thaçi Defence Preliminary Motions, the decisions on preliminary motions raised in the context of these proceedings are final<sup>28</sup> within the meaning of Rule 98(1) of the Rules.

26. Considering the expeditious nature of Article 15(2) proceedings,<sup>29</sup> the Pre-Trial Judge finds that the case file is ready to be transmitted to the Single Trial Judge, in accordance with Rule 98 of the Rules.

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<sup>28</sup> Decisions of the Court of Appeals Panel that cannot be subject to third instance proceedings before a Supreme Court Panel are final (see KSC-CC-2022-14, F00009, Specialist Chamber of the Constitutional Court, [\*Decision on the Referral of Jakup Krasniqi Concerning the Legality of Charging Joint Criminal Enterprise and the Referral of Kadri Veseli Concerning Decision of the Appeals Panel on Challenges to the Jurisdiction of the Specialist Chambers\*](#), 13 June 2022, public, para. 56; KSC-CC-2022-15, F00010, Specialist Chamber of the Constitutional Court, [\*Decision on the Referral of Hashim Thaçi Concerning the Right to an Independent and Impartial Tribunal Established by Law and to a Reasoned Opinion\*](#) ("Decision on Mr Thaçi's Referral Concerning the Right to an Independent and Impartial Tribunal") 13 June 2022, public, paras 66-67; KSC-CC-2022-16, F00004, Specialist Chamber of the Constitutional Court, [\*Decision on the Referral of Pjetër Shala to the Constitutional Court Panel Concerning Fundamental Rights Guaranteed by Article 33 of the Kosovo Constitution and Article 7 of the European Convention on Human Rights\*](#), 6 July 2022, public, para. 51). This applies even if proceedings are instituted before the Specialist Chamber of the Constitutional Court, which is the final authority *only* in relation to alleged violations by the SC or SPO of the accused's and victims' individual rights and freedoms guaranteed by the Constitution (Article 49(3) of the Law; see also KSC-CC-2019-05, F00012, Specialist Chamber of the Constitutional Court, [\*Decision on the Referral of Mahir Hasani Concerning Prosecution Order of 20 December 2018\*](#), 20 February 2019, para. 50; Decision on Mr Thaçi's Referral Concerning the Right to an Independent and Impartial Tribunal, para. 41).

<sup>29</sup> The Pre-Trial Judge recalls that, according to Rule 72(1) of the Rules, an Article 15(2) case file may be transmitted to a Trial Panel "as soon as preliminary motions are disposed of".



27. In accordance with Rule 98(1) of the Rules, the Pre-Trial Judge has thus prepared a Handover Document containing the information prescribed by Rule 98(1)(e) of the Rules, for the benefit of the Single Trial Judge and the Parties. The Pre-Trial Judge specifies that, due to the non-public information contained therein, both a confidential and public redacted version of the Handover Document is annexed to this Decision.

#### IV. DISPOSITION

28. For the above-mentioned reasons, the Pre-Trial Judge hereby **TRANSMITS** case file KSC-BC-2023-12 to the Single Trial Judge, including the Handover Document annexed to the present decision.



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

Dated this Wednesday, 12 November 2025

At The Hague, the Netherlands.