

In: KSC-BC-2023-12

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

Before: **Single Trial Judge**
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

Date: 9 December 2025

Language: English

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Thaçi Defence Request for reconsideration and adjournment

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I. INTRODUCTION

1. The Defence of Mr Hashim Thaçi (“Defence”) files these submissions in light of the Single Trial Judge’s Order Scheduling Commencement of Trial (“Order”) in which he ordered that trial shall commence on Tuesday 24 February 2026.¹
2. The Defence respectfully request the Single Trial Judge to reconsider and order that trial starts on 2 March 2026 (4 business days later) in order to enable the Defence time to properly prepare with Mr Thaçi in the week following closing arguments in *Prosecutor v Thaçi, Veseli, Selimi, and Krasniqi* (“Case 06”).

II. PROCEDURAL HISTORY

3. Before the Pre-Trial Judge, the Defence made submissions on the fair trial challenges faced by Mr Thaçi as a result of the fact that he is facing two simultaneous criminal cases.²
4. On 29 August 2025, the Defence indicated that it expected to be ready for trial on 2 March 2026, and reiterated that it is essential to the Defence that this case does not begin until after the completion of closing arguments in Case 06. It also indicated that Mr Thaçi’s co-counsel is unavailable between 13-23 February owing to prior commitments.³
5. Following the assignment of the Single Trial Judge on 12 November 2025,⁴ on 17 November 2025 he ordered a Trial Preparation Conference for 28 November

¹ KSC-BC-2023-12/F00602, Single Trial Judge, [Order Scheduling Commencement of Trial](#), 4 December 2025, Public (“Order”).

² KSC-BC-2023-12/F00285, [Thaçi Defence Preliminary Motion Requesting Severance of the Indictment and Adjournment of Proceedings concerning Mr Thaçi](#), 7 May 2025, Public (“Severance Motion”); KSC-BC-2023-12/F00427/COR, Corrected Version of Thaçi Defence Submissions on the Pre-Trial Calendar, 29 August 2025, Confidential ([Public Redacted Version](#) 29 August 2025), paras 9-10.

³ *Ibid.*, para. 21.

⁴ KSC-BC-2023-12/F00543, President, [Decision Assigning a Single Trial Judge](#), 12 November 2025, Public.

2025 and requested submissions, including on whether the parties would be ready for trial on 15 December 2025.⁵

6. On 20 November 2025 the Specialist Prosecutor's Office ("SPO") filed its submissions, and requested that trial be scheduled for February 2026.⁶
7. On 24 November 2025, submissions were filed by the Defence⁷ and the defence of the four other accused.⁸ The Defence submitted that it would "not be ready to start trial before the beginning of March 2026."⁹ The Defence stressed that it will need at least two weeks after the Case 06 closing arguments to review the latest disclosure and meet with Mr Thaçi in order to be fully ready for trial.¹⁰ The four other accused did not make specific requests regarding the start date of trial, and none objected to the Defence's request for a start date in March 2026.
8. On 28 November 2025, a Pre-Trial Conference was held.
9. On 4 December 2025, the Single Trial Judge issued the order, fixing the date for the commencement of trial as 24 February 2026.¹¹

III. APPLICABLE LAW

10. Article 40(2) of the KSC Law¹² provides that a Trial Panel:

...shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules of Procedure and Evidence, with full respect for the rights of the accused and due regard for the protection

⁵ KSC-BC-2023-12/F00549, Single Trial Judge, [Order Scheduling the Trial Preparation Conference and Requesting Submissions](#), 17 November 2025, Public.

⁶ KSC-BC-2023-12/F00559, Prosecution submissions pursuant to F00549, 20 November 2025, Confidential (Public Redacted Version 26 November 2025) ("F00559"), paras 3, 35.

⁷ KSC-BC-2023-12/F00568, Thaçi Defence Submissions for the Trial Preparation Conference, 24 November 2025, Confidential.

⁸ KSC-BC-2023-12/F00565, Smakaj Submissions for the Trial Preparation Conference, 24 November 2025, Confidential; KSC-BC-2023-12/F00567, Kuçi Defence submissions for the Trial Preparation Conference, 24 November 2025, Confidential; KSC-BC-2023-12/F00569, Kilaj Submissions Ahead of Trial Preparation Conference, 24 November 2025, Public; KSC-BC-2023-12/F00570, Fazliu Trial Preparation Submissions, 24 November 2025, Public.

⁹ KSC-BC-2023-12/F00568, Thaçi Defence Submissions for the Trial Preparation Conference, 24 November 2025, Confidential, para. 9.

¹⁰ *Ibid.*, para. 16.

¹¹ Order, paras 22, 30(a).

¹² Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("KSC Law").

of victims and witnesses. The Trial Panel, having heard the parties, may adopt such procedures and modalities as are necessary to facilitate the fair and expeditious conduct of proceedings. ...

11. Rule 116(1) of the Rules¹³ states that a Trial Panel shall “take all measures and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the trial proceedings.”
12. Article 21(4) of the KSC Law guarantees the right of an accused to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his choosing.¹⁴ The same right is protected under Article 31 of the Kosovo Constitution, and Article 6 of the European Convention on Human Rights (imported into Kosovo law through Article 22 of the Kosovo Constitution).
13. Rule 123(1) permits a Panel to adjourn the trial for no longer than twenty-one days for the preparation of the Defence or “any other reason justifying the adjournment”.
14. As the Single Trial Judge noted in the Order, he has discretion with respect to trial scheduling, but such discretion must be exercised in conformity with the overriding obligations under Article 40(2) of the KSC Law.¹⁵
15. Rule 79 of the Rules permits a Panel to exceptionally reconsider its own decisions where a clear error of reasoning has been demonstrated or where reconsideration is necessary to avoid injustice.

IV. SUBMISSIONS

16. The Defence is conscious that the Single Trial Judge has now ruled on the question of the start of trial and that reconsiderations are to be granted exceptionally. Nonetheless, as set out below, reconsideration is necessary in the present instance in order to avoid injustice. The Defence also notes that although the Single Trial

¹³ KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 (“Rules”). All references to a “Rule” or “Rules” in this document are to this text.

¹⁴ KSC Law, Article 21(4)(c).

¹⁵ Order, para. 21.

Judge has received written submissions on the feasibility of starting trial on 15 December, he has not heard the Defence on the possibility of a trial commencing 24 February 2026.

17. As the Single Trial Judge is aware, oral submissions in Case 06 are scheduled for 9 to 13 February 2026, with the possibility of extending to 16 and 18 February 2026.¹⁶
18. The Single Trial Judge appears to have taken into account the difficulties which the Defence would face if opening statements were scheduled so as to coincide with the Case 06 closing statements. However, it is not clear that the Single Trial Judge took into account that the Defence will need at the very least a short amount of time *between the Case 06 closing statements and the start of the trial*. This time is essential to prepare for the cross-examination of the SPO's witnesses and possible opening statements.¹⁷ The need for this time *after* the close of Case 06 is for two reasons:
 19. First, although the Single Trial Judge is correct that some material relevant to the SPO witnesses has been in the defence's possession for some time,¹⁸ throughout this time the Defence has consistently been hampered by the concurrent proceedings in Case 06. For most of the duration of Case 12, Mr Thaçi's and his counsel have been busy preparing for and presenting their defence case in Case 06, leaving limited time to progress Case 12 preparation.
 20. Secondly, further material will come into the Defence's possession in the coming two months which are essential to prepare for the cross-examination of the SPO witnesses. For instance, on 20 November 2025, the Defence requested the disclosure of material necessary to prepare the cross-examination of Witness 8,

¹⁶ Referenced in the Order at para. 11.

¹⁷ The Defence has until 2 February 2026 to inform the Trial Judge of the moment, if any, it elects to present its opening statements (Order, para. 27).

¹⁸ Order, para. 24.

but has not received such material yet. On 27 November 2025, the Defence for Mr Kilaj requested additional documents concerning Witness 8, which have also not yet been disclosed. The SPO is yet to provide lists of documents to be used with its witnesses or to release its presentation queues. It is also clear that the SPO expects to disclose further materials pursuant to Rule 102(1)(b), Rule 102(3) and Rule 103 between now and the start of trial, some of which may be used with these witnesses.¹⁹ It will be necessary for counsel to review this material, take instructions on it from Mr Thaçi, and prepare for the SPO's witnesses and the Defence's opening statements, if any. However, in the period between now and mid-February, Mr Thaçi will be fully occupied with Case 06, and his counsel largely so occupied also. This is made necessary by the size and complexity of that case, and the intensive calendar set by Trial Panel II: final trial briefs are to be filed by 19 January 2026,²⁰ with only three weeks thereafter to prepare for closing arguments.

21. Matters are further complicated by the fact that Mr Thaçi's co-counsel has prior professional commitments from 13 to 23 February.²¹
22. The Defence has consistently offered genuine estimates of when it can be ready for trial, taking into account these factors. The date requested, 2 March 2026, would already leave the Defence with an extremely short period of time within which to take instructions from Mr Thaçi and finalise trial preparation once Case 06 is over, and represents a concession in the interests of expedition. Beginning trial on 24 February will leave the Defence with only three business

¹⁹ F00559, paras 7-24; see also KSC-BC-2023-12, Transcript of 28 November 2025, pp. 241-242 (open session).

²⁰ *Case 06*, KSC-BC-2020-06/F03597, [Order Pursuant to Rules 134\(b\), \(d\) and 159\(6\) and Related Matters](#), 21 November 2025, Public, para. 39(f).

²¹ As indicated in KSC-BC-2023-12/F00427/COR, Corrected Version of Thaçi Defence Submissions on the Pre-Trial Calendar, 29 August 2025, Confidential ([Public Redacted Version](#) 29 August 2025), para. 21.

days, and five calendar days total, between the closure of Case 06 and opening statements in this case; all of which are days on which co-counsel is unavailable.

23. The Defence also notes that while each of Mr Thaçi's co-accused face two counts, Mr Thaçi faces eleven counts in this case. There will likely be a significant number of matters for counsel to discuss with Mr Thaçi regarding each of the SPO's witnesses in the days before trial starts. The Defence seeks one clear calendar week during which both counsels are available to undertake this work. It submits that this is a reasonable, indeed a short, period of time for completing this process which is essential for trial preparation.
24. For these reasons, the Defence requests that the Single Trial Judge adjourn the start of trial for a very short period – four business days – to 2 March 2026.
25. The requested adjournment would have a determinative impact on the Defence's ability to prepare for trial. This period will be the first time during the course of this case that Mr Thaçi and the Defence can focus fully on proceedings in this case. At that point, every day will be of significant value to the Defence.
26. In contrast, the requested postponement would cause negligible delay and no apparent prejudice to the other parties. That is made clear by the fact that none of the other parties has objected to a start date of 2 March 2026.²² The Single Trial Judge himself appears to minimise the importance of the four business day period between the Defence's requested start date for trial, and the date fixed in the Order.²³ If the period can be considered minimal, the Defence submits that there is no harm in allowing the Defence this time to prepare.

²² The SPO itself, in its email of 2 December 2025 regarding the Parties' availability, indicated 2 March 2026 as a possible start date for trial.

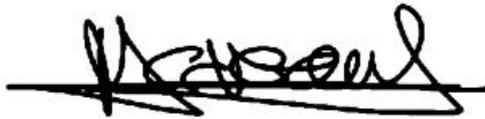
²³ Order, para. 24.

V. RELIEF SOUGHT

27. Accordingly, the Defence respectfully requests the Single Trial Judge to reconsider the Order, and set the start date for trial as 2 March 2026.

[Word count: 1993 words]

Respectfully submitted,

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

Sophie Menegon

Counsel for Hashim Thaçi

9 December 2025

Paris, France