



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: Single Trial Judge

Judge Christopher Gosnell

Registrar: Fidelma Donlon

Date: 22 December 2025

Language: English

Classification: Public

Decision on the Conduct of Proceedings

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THE SINGLE TRIAL JUDGE, pursuant to Article 40(2) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 116(1) and (3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.¹

I. PROCEDURAL BACKGROUND

1. On 17 November 2025, the Single Trial Judge invited the Parties and the Registry/Witness Protection and Support Office ("WPSO") to make submissions on various matters concerning the conduct of proceedings.²

2. The submissions of the Specialist Prosecutor's Office ("SPO") and the Registry/WPSO³ were submitted on 20 November 2025,⁴ and those of the Defence for Hashim Thaçi ("Thaçi Defence"), the Defence for Bashkim Smakaj ("Smakaj Defence"), the Defence for Isni Kilaj ("Kilaj Defence"), the Defence for Fadil Fazliu ("Fazliu Defence") and the Defence for Hajredin Kuçi ("Kuçi Defence") were submitted on 24 November 2025.⁵

¹ All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules.

² KSC-BC-2023-12, F00549, [Order Scheduling the Trial Preparation Conference and Requesting Submissions](#), 17 November 2025, public, para. 12(3)(viii).

³ KSC-BC-2023-12, F00558, Registrar, *Registrar's Submissions for Trial Preparation Conferences*, 20 November 2025, public, with Annex 1, confidential.

⁴ KSC-BC-2023-12, F00559, Specialist Prosecutor, *Prosecution Submissions Pursuant to F00549*, 20 November 2025, confidential; a public redacted version was filed on 26 November 2025.

⁵ KSC-BC-2023-12, F00568, Thaçi Defence, *Thaçi Defence Submissions for the Trial Preparation Conference* ("Thaçi Submissions"), 24 November 2025, confidential; F00565, Smakaj Defence, *Smakaj Submissions for the Trial Preparation Conference* ("Smakaj Submissions"), 24 November 2025, confidential; F00569, Kilaj Defence, *Kilaj Submissions Ahead of Trial Preparation Conference* ("Kilaj Submissions"), 24 November 2025, public; F00570, Fazliu Defence, *Fazliu Trial Preparation Submissions* ("Fazliu Submissions"), 24 November 2025, public; F00567, Kuçi Defence, *Kuçi Defence Submissions for the Trial Preparation Conference*, 24 November 2025, confidential.

3. On 28 November 2025, the Single Trial Judge held the trial preparation and Specialist Prosecutor's preparation conferences, during which additional oral submissions were received concerning the conduct of proceedings.⁶

4. On 4 December 2025, the SPO made submissions on witness familiarisation and preparation.⁷

5. On the same day, the Single Trial Judge scheduled the commencement of trial for 24 February 2026, and set certain other deadlines.⁸

II. APPLICABLE LAW

6. Pursuant to Rule 116(3), "[p]rior to the opening of the case and after hearing the Parties", the Single Trial Judge "may give directions on the conduct of proceedings as necessary to ensure a fair and expeditious trial."

7. Article 40(2) requires the Single Trial Judge to "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 of witnesses." The Single Trial Judge may, pursuant to the same provision, "adopt such procedures and modalities as are necessary to facilitate the fair and expeditious conduct of proceedings" and "may give directions for the conduct of fair and impartial proceedings in accordance with the Rules of Procedure and Evidence."

⁶ KSC-BC-2023-12, Transcript of Hearing, *Trial Preparation Conference*, 28 November 2025.

⁷ KSC-BC-2023-12, F00601, Specialist Prosecutor, *Prosecution Submissions on Witness Familiarisation Process and Approach to Witness Preparation* ("SPO Submissions on Witness Familiarisation and Presentation"), 4 December 2025, confidential; a public redacted version was filed on 5 December 2025, F00601/RED.

⁸ KSC-BC-2023-12, F00602, Single Trial Judge, *Order Scheduling Commencement of Trial*, 4 December 2025, public.

III. DISCUSSION

8. The Single Trial Judge, having received the Parties' submissions, adopts these guidelines for the conduct of the proceedings in the present case. These guidelines shall be understood as supplemental to the Kosovo Specialist Chambers' legal framework and applicable Practice Directions and Registry Instructions. The Single Trial Judge has not addressed matters that he considers sufficiently regulated by the Law and Rules. Further directions may be issued where necessary, as trial progresses.

A. PUBLIC CHARACTER OF THE PROCEEDINGS

9. In accordance with the public character of proceedings prescribed by Article 40(4) and Rule 120(1), the Parties shall endeavour to file written submissions as public documents, and to confine confidential information as much as possible to confidential or strictly confidential annexes. Oral submissions and presentation of evidence should be formulated and organized to minimize, to the extent feasible, private or closed sessions pursuant to Rule 120(3).

10. Parties may refer to confidential filings in open session provided that doing so does not defeat the purpose of that classification. If any Party believes that confidential information has been disclosed in public session that requires redaction, they shall promptly send an email to the designated Registry Court Officer indicating specifically (with reference to timestamp or line numbers of the real-time transcript) the excerpts that may require redaction.

11. The Parties and the Registry shall file public and/or confidential redacted versions of filings no later than three (3) days after the original filing was made. Where the basis for the original classification no longer exists, the filing Party or, where applicable, the Registry, shall request reclassification, as provided in Rule 82(5).

12. Parties and participants are instructed to offer *ex parte* submissions only when strictly necessary. Any *ex parte* submission shall begin with a justification for the *ex parte* classification of the submission, and the filing may be rejected *in limine* unless a sufficient justification is provided. Parties should expect that any *ex parte* submission may subsequently be reclassified as *inter partes*, if and when any justification for an *ex parte* filing no longer exists.

13. The Parties and the Registry are instructed to review the transcripts of trial hearings with a view to assessing whether any redactions applied during the hearings can be lifted, or transcripts reclassified as public. The Parties and Registry shall make a joint submission on this issue, in a consolidated filing, within two (2) weeks of the completion of each evidentiary block. Should the Parties and the Registry disagree on the lifting of specific redactions, this will be set out in the joint submissions with the respective positions justified. The Single Trial Judge will decide on the lifting of redactions and/or reclassification of the transcripts, pursuant to Rules 80(1) and 84(1).

B. WORKING LANGUAGE

14. The Decision on Working Language of 11 December 2024 remains in effect.⁹

C. DISCLOSURE AND RESTRICTIONS TO DISCLOSURE

15. Unless otherwise provided, the regime governing the disclosure of evidence and restrictions to disclosure remains in effect.¹⁰

D. SEQUENCE OF PRESENTATION OF EVIDENCE

16. Each Party will present evidence, if any, in the sequence prescribed by Rule 127(2). If the Defence teams do not otherwise agree, they shall present their

⁹ KSC-BC-2023-12, F00076, Pre-Trial Judge, [Decision on Working Language](#), 11 December 2024, public.

¹⁰ KSC-BC-2023-12, F00100, Pre-Trial Judge, [Framework Decision on Disclosure of Evidence and Related Matters](#), 20 December 2024, public.

cases in the order that the Accused are listed on the Amended Confirmed Indictment.¹¹

E. NON-TESTIMONIAL EVIDENCE

17. The admissibility of non-testimonial evidence tendered through a witness will generally be decided immediately upon having been used with a witness or, if cross-examination may assist in a determination of admissibility, at the conclusion of the witness's testimony as a whole.

18. Non-testimonial evidence may also be tendered by way of written submissions. The admissibility of such material shall be decided prior to, or during the course of, trial proceedings. Any such request shall:

- (i) provide a short description of each proposed exhibit;
- (ii) specify the relevance of the proposed exhibit including, if appropriate, by reference to the relevant paragraph(s) of the Amended Confirmed Indictment, and the basis of its probative value; and
- (iii) provide indicators of the proposed exhibit's authenticity.

19. Parties seeking the admission of lengthy documents, videos or other materials of which only a part is relevant, shall specify the portions tendered for admission as evidence. If tendered in whole, the Party shall justify why the admission of the entirety of any voluminous item is justified.

¹¹ 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).

F. WITNESSES

1. Protective Measures

20. Any decisions issued in this case by the Pre-Trial Judge concerning protective measures for witnesses remain in effect.¹² Parties shall bring any further applications for protective measures for their intended witnesses pursuant to Rule 80 no later than at the time of filing of their final list of witnesses. The measures of protection sought shall be clearly specified. Where a witness informs the calling Party that he or she no longer wishes to have protective measures, the calling Party shall promptly notify the WPSO and the Single Trial Judge, and facilitate compliance with the waiver requirements prescribed by Rule 81(6).

2. Witness Familiarisation

21. The Parties shall coordinate with the WPSO in relation to all aspects of witness familiarisation¹³ and, to that end, shall follow Registry Practice Directions KSC-BD-19/Rev1¹⁴ and KSC-BD 40,¹⁵ Registry Protocol KSC-BD-20¹⁶ and Registry Instructions KSC-BD-41¹⁷ and KSC-BD-42/Rev3.¹⁸ In addition and in any event, the following deadlines and procedures shall be respected:

¹² KSC-BC-2023-12, F00172, Pre-Trial Judge, *Decision on Prosecution Request for Protective Measures*, 11 February 2025, confidential; F00295, Pre-Trial Judge, *Second Decision on Protective Measures and the Handling of Confidential Information and Witness Contacts* (“*Second Decision on Protective Measures and Handling of Confidential Information and Witness Contacts*”), 12 May 2025, strictly confidential and *ex parte*.

¹³ The Single Trial Judge understands witness familiarization as encompassing “the information and support provided by the WPSO to witnesses prior to their testimony, pursuant to its obligations under Article 34(8) of the Law and Rules 27 and 80(8) of the Rules” (*see* KSC-BC-2023-10, F00595, *Decision on Witness Familiarisation*, 13 November 2024, public, para. 22).

¹⁴ Registry Practice Direction, Psychological assessments and support to facilitate testimony, KSC-BD-19-Rev1, 9 February 2022.

¹⁵ Registry Practice Direction, Standard Operating Procedure on Assistance and Allowances for Witnesses Appearing Before the Specialist Chambers, KSC-BD-40-Rev1, 7 October 2022.

¹⁶ Registry Protocol, Pre-Travel Support Assessments and Support Measures for Witnesses, KSC-BD-20, 18 October 2019.

¹⁷ Registry Instruction, Calculation of Daily Subsistence Allowances for Witnesses Appearing Before the Specialist Chambers, KSC-BD-41-Rev1, 7 October 2022.

¹⁸ Registry Instruction, WPSO Guidelines on Services to Witnesses Appearing Before the Specialist Chambers, KSC-BD-42-Rev3, 27 September 2024, with Annexes 1-2.

- (i) A calling Party shall advise the WPSO of its list of intended witnesses, and the expected sequence, timing and modality of their appearance before the Single Trial Judge, no later than **twenty-one (21) days** before the start of the evidential block during which they are expected to appear and shall thereafter promptly update the WPSO if any circumstances arise necessitating a modification of that anticipated schedule;
- (ii) Contact between the witness and any Party in the case shall be prohibited from the moment the witness takes the solemn declaration under Rule 141(2) and the end of their testimony, regardless of where they reside or the location from which they give testimony; and
- (iii) Witnesses who are employees of a Party are strictly prohibited from discussing any issue related to the case with colleagues or anyone else while under oath, but may communicate with colleagues concerning matters unrelated to the case if so required by urgent duties related to other cases.¹⁹

22. The foregoing rule does not prohibit contacts between a witness and the calling Party prior to the taking of the solemn declaration.²⁰ However, any rules of general application to meetings between Parties and witnesses, including concerning obligations to take statements and of timing of disclosure of statements, or arising from Article 17 of the Code of Professional Conduct, continue to apply to any and all contacts by the Parties with witnesses regardless of their timing.

¹⁹ SPO Submissions on Witness Familiarisation and Presentation, paras 9-12.

²⁰ See KSC-BC-2023-10, F00595, Trial Panel I, *Decision on Witness Familiarization*, 13 November 2024, public, para. 30.

3. Examination by Video-Conference and Examination Away from Trial Venue

23. Applications to call a witness via video-conference pursuant to Rules 144 or 145 shall be made at least **21 days** prior to the beginning of the evidential block during which the witness is intended to be called as a witness. In the former case, the calling Party shall provide the Registrar and the Single Trial Judge with the information required by the Registry Practice Direction on Video Links (KSC-BD-23/COR).

4. Questioning of Witnesses

(a) Order of Questioning

24. Witnesses called by the SPO will first be questioned by the SPO, and then by any Defence team that so wishes in the order listed on the Amended Confirmed Indictment unless otherwise agreed amongst them. Witnesses called by the Defence will first be questioned by the calling Party, then by the remaining Defence teams in the order listed on the Amended Confirmed Indictment unless otherwise agreed amongst them, and then by the SPO.

25. The Single Trial Judge may, when the interests of justice require, vary the order of questioning.

(b) Direct Examination

26. The Parties shall provide their tentative sequence of witnesses at least **21 days** before the evidential block in which they are scheduled to testify, along with a tentative list of proposed exhibits to be used with each witness, an updated time estimate for direct examination, whether they will testify live or by video-conference, and a summary of the issues, facts and circumstances on which they will testify, if not already provided. A final list of exhibits to be used with each witness shall be provided **seven (7) days** before the anticipated start date of the

witness's testimony. No later than **48 hours** before a witness is scheduled to start their testimony, the calling Party shall upload its final presentation queue to Legal Workflow that includes all documents it intends to use with the witness. Deadlines concerning the timing of the notification of documents set out should be calculated from the earliest possible moment that a witness may commence testimony.

27. The presenting Party shall notify the Single Trial Judge, the opposing Parties and the Registry as soon as possible of any changes to the order of witnesses. The presenting Party shall also ensure that, at the conclusion of the evidence of a witness, there is another witness ready to begin to testify. The presenting Party shall ensure that the next witness in its sequence of witnesses is available to testify should the testimony of a previous witness end earlier than anticipated. The Parties are advised to consult WPSO to ensure the feasibility of changes to the order of appearance of witnesses, considering the logistics involved in ensuring the timely presence of witnesses at trial.

(c) Cross-Examination

28. Within **24 hours** of notification of a calling Party's seven (7)-day notification of the exhibits to be used with a witness during direct examination, any Party intending to cross-examine a witness shall communicate their estimate of the time expected for cross-examination of that witness by way of *inter partes* email addressed to the designated Registry Court Officer email address.

29. Immediately upon the completion of direct examination, the cross-examining Party shall release to the Single Trial Judge and the opposing Parties a presentation queue listing all documents or other material that it intends to use during cross-examination. This list shall indicate the exhibit number of any exhibit already admitted in evidence by the Single Trial Judge or the ERN of the document if not already admitted. The presentation queue shall also list any documents or other material not previously disclosed.

(d) Objections

30. Any Party wishing to object to a question during testimony of a witness shall stand and concisely state the objection to the Single Trial Judge. Where necessary, the Party making the objection shall indicate whether there is a need to go into private or closed session and/or whether the objection can be made in the presence of the witness. If the witness does not understand English, the witness may be asked to remove his or her headphones in lieu of leaving the courtroom. Unless otherwise decided, the Single Trial Judge shall rule on the objection orally and immediately.

31. A Party expecting to challenge a witness's testimony or a proposed exhibit on the basis of a particularly complex factual or legal objection, where insufficient time was available to make an objection by way of written filing, shall give advance notice of the nature of the objection at the earliest opportunity by email to all Parties and through the designated Registry Court Officer email address. The Single Trial Judge will rule on the objection having heard the Parties in court.

(e) General Matters

32. A Party calling a witness is generally expected to formulate their questions in a way that does not suggest the content of the answers to be given by the witness, especially in respect of contested issues of fact.

33. Cross-examining Parties are instructed to avoid unnecessary, complicated, irrelevant or repetitive questioning of witnesses, and shall be mindful of the need for interpreters to interpret questions and answers to ensure a complete and accurate record of both questions and answers. The Single Trial Judge will not, at the present time, set a general time limit for cross-examination of witnesses, but may, acting pursuant to Rule 143(4), set specific time limits if the cross-examination is not conducted in an efficient manner. In this respect, where multiple Defence teams intend to cross-examine a witness, they are encouraged to collaborate to the extent possible to avoid repetitive questioning.

34. The Single Trial Judge may permit re-direct examination and, exceptionally, further cross-examination following re-direct examination, where necessary to clarify the witness's testimony arising from questions by other Parties. Likewise, additional questions by the Parties may be permitted, with leave of the Single Trial Judge, following questions that may be posed to a witness by the Single Trial Judge, if necessary to clarify the witness's testimony.

5. Expert Witnesses

35. In the absence of any other direction, the Party calling an expert is required to produce and disclose a final version of the expert's report no less than **30 days** before the start of its case which, in the case of the Defence, shall be understood as the beginning of the presentation of evidence by any Defence team.

36. Along with the expert report, the calling Party shall disclose and submit any engagement letter or other written instructions setting out the terms of reference for the work of the expert, as well as any further written instructions that may have been provided.

37. A decision on the qualification of a witness as an expert may be deferred until after the conclusion of an expert witness's testimony.

6. Self-Incrimination of Witnesses

38. The calling Party, where applicable, shall notify a witness about the possibility of self-incrimination and the relevant rights and procedure under Rule 151. The calling Party shall also give due notice to the Single Trial Judge about potential requests for assurances pursuant to Rule 151(3).

G. RECORDING OF THE USE OF TIME

39. The Registry shall be responsible for recording time used during the evidence of each witness:

- (i) by the calling Party for its direct examination;

- (ii) by each cross-examining Party;
- (iii) by each Party conducting re-direct examination or further cross-examination;
- (iv) by the Single Trial Judge as a result of putting questions to the witness; and
- (v) for all other matters, including procedural and administrative matters.

40. Time spent dealing with an objection shall not be computed into the time spent by either Party.

41. Regular reports on the use of time shall be compiled by the Registry in conjunction with the Single Trial Judge, which shall be provided periodically to the Parties.

42. The Single Trial Judge may make further orders, as deemed necessary, concerning the time used by, and available to, the SPO or the Defence.

H. REMOTE ATTENDANCE OF ACCUSED

43. Any Accused who are at liberty may request to attend hearings via video-conference,²¹ provided that their respective Specialist Counsel attend the hearing in person.²² Any such request must be filed no later than four (4) weeks prior to the commencement of the relevant evidentiary block. Responses may be filed within five (5) days, replies may be filed within three (3) days.

²¹ The Single Trial Judge underscores that when testifying from Kosovo the conditions on the Accused concerned remain in effect, *see* KSC-BC-2023-12, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters*, 29 November 2024, confidential, paras 100-101; a public redacted version was submitted on 19 December 2024, F00037/RED; *Second Decision on Protective Measures and Handling of Confidential Information and Witness Contacts*, para. 46; F00599, Single Trial Judge, *Sixth Decision on Review of Detention of Isn'i Kilaj*, 3 December 2025, confidential and *ex parte*, paras 50-51; a public redacted version was submitted on 10 December 2025, F00599/RED.

²² Rule 68(2).

I. FINAL TRIAL BRIEFS

44. Final Trial Briefs shall be filed in accordance with Rule 134(b) by a date set by the Single Trial Judge no later than 30 days after the closure of the presentation of evidence in the case. In light of this short statutory deadline, the Single Trial Judge does not consider a sequential briefing schedule requiring the SPO to file its brief first, as requested by the Defence,²³ to be feasible. However, mindful of the Defence's submissions concerning the need to be able to respond to arguments of the SPO, the Parties will also be invited to submit reply briefs to ensure they have an opportunity to respond in writing to any arguments raised by an opposing Party. Page limits and timing will be decided by the Single Trial Judge in due course.

J. LEGAL WORKFLOW

45. This trial shall be conducted using Legal Workflow. All documents shall be handled through this system. Hard copies of a document may be used by a Party only where the Party has been unable, due to unforeseen circumstances, to upload a document into Legal Workflow or where its physical use in court is necessary because of its particular nature.

46. When the use of hard copies of a document is permitted, the tendering Party is responsible for producing copies for the Single Trial Judge, witness, opposing Parties, Registry and the interpreters.

IV. DISPOSITION

47. For the above reasons, the Single Trial Judge hereby:

- a. **ADOPTS** these guidelines for the conduct of proceedings in the present case; and

²³ Thaçi Submissions, para. 36; Smakaj Submissions, para. 14; Kilaj Submissions, para. 17; Fazliu Submissions, para. 14.

- b. **INSTRUCTS** the Thaçi Defence, the Smakaj Defence and the Kuçi Defence to file public redacted versions of their submissions in relation to this decision by **Friday, 30 January 2026**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Monday, 22 December 2025

At The Hague, the Netherlands.