

1 Tuesday, 19 August 2025

2 [Open session]

3 [Defence Preparation Conference]

4 [The accused entered the courtroom]

5 [The accused Krasniqi appeared via videolink]

6 --- Upon commencing at 10.01 a.m.

7 PRESIDING JUDGE SMITH: Good morning, everyone.

8 Mr. Court Officer, please call the case.

9 THE COURT OFFICER: Good morning, Your Honours. This is the  
10 file number KSC-BC-2020-06, The Specialist Prosecutor versus  
11 Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi. Thank  
12 you, Your Honours.

13 PRESIDING JUDGE SMITH: Thank you. I note that Mr. Krasniqi is  
14 attending today's Defence Preparation Conference via videolink. The  
15 other accused are present in court today. I also note that  
16 Ms. Alagendra is attending via videolink. Good morning,  
17 Ms. Alagendra.

18 Today we will hold the Defence Preparation Conference which  
19 precedes the opening of the Defence case pursuant to Rule 119.  
20 Before we start, I recall that the Prosecution opened its case on  
21 3 April 2023 and presented witnesses between 11 April 2023 and  
22 27 March 2025. The Prosecution closed its case on 15 April of this  
23 year. And on 16 July 2025, the Panel decided not to dismiss,  
24 pursuant to Rule 130, any of the Prosecution charges at this stage.

25 Victims' Counsel has also presented its case.

1 Pursuant to Rule 119, the Defence for Mr. Thaci and Mr. Krasniqi  
2 respectively informed the Panel on 16 July 2025 that they each  
3 intended to present a Defence case.

4 On 25 July 2025, the Panel ordered for the Defence Preparation  
5 Conference to be held today. The purpose of this conference is to  
6 prepare for the Defence case and to ensure that no undue delay is  
7 being caused in the completion of these proceedings. We will go  
8 through some of the questions of the Panel in accordance with  
9 Rule 119 and other outstanding issues. After that, all parties will  
10 be given an opportunity to raise any remaining issues they deem it  
11 necessary to be discussed.

12 Before we turn to the substance of the Defence Preparation  
13 Conference, the Panel wishes to issue two oral orders.

14 First, the Panel recalls that on 13 May 2025 the Panel issued  
15 decisions on the Veseli, Selimi, and Krasniqi Defences' request for  
16 provisional release and, in respect of Mr. Selimi and Mr. Krasniqi,  
17 bimonthly review of the detention. All three Defence teams appealed  
18 the respective decisions. In addition, the accused waived their  
19 right to a bimonthly review of detention until the Court of Appeals  
20 rendered its decision.

21 On 14 August 2025, the Court of Appeals Panel issued all three  
22 decisions on the accused's appeals. Therefore, the bimonthly review  
23 of the accused's detention will resume and the Panel will set a  
24 briefing schedule for the submission of the parties.

25 The Panel notes that, in F03273 and F03274, the Panel has

1 already filed submissions pertaining -- I'm sorry, the SPO has  
2 already filed submissions pertaining to the periodic review of  
3 detention of Mr. Krasniqi and Mr. Selimi. The SPO has not filed any  
4 submission pertaining to the periodic review of detention of  
5 Mr. Veseli.

6 To allow the SPO an opportunity to consider and make submissions  
7 in respect of the Court of Appeals findings in respect of all three  
8 accused, the Panel orders the SPO to file, first of all, submissions  
9 pertaining to the periodic review of detention of Mr. Veseli; and,  
10 secondly, any additional submissions pertaining to the periodic  
11 review of detention of Mr. Krasniqi and Mr. Selimi, by Tuesday, 26  
12 August 2025, with the responses and the replies following the  
13 timeline set out in Rule 76.

14 This concludes the Panel's oral order.

15 The Panel will now issue the second oral order.

16 On August 1, 2025, the Thaci Defence filed F03381, a request for  
17 the Panel to order the Witness Protection and Support Office to take  
18 certain measures in relation to a witness. The SPO and  
19 Victims' Counsel have responded to the request. The Thaci Defence  
20 has replied.

21 Since the request asks WPSO to take certain measures, the Panel  
22 would like to invite submissions from the Registry on this matter no  
23 later than Tuesday, 26 August 2025.

24 This concludes the Panel's second oral order.

25 On 21 July 2025, the Defence for Mr. Thaci and Mr. Krasniqi

1 filed their witness and exhibit lists pursuant to Rule 119(2).

2 Regarding the exhibit list, the Panel notes that, in accordance with  
3 the Panel's order in F03371, both the Krasniqi and Thaci Defences  
4 filed revised versions of their exhibit lists in order to include  
5 only the proposed exhibits which it intends to present at trial.

6 While the Panel has certain questions about documents awaiting  
7 Rule 107 clearance and translations, which will be discussed later  
8 today, the Panel would like to briefly hear the parties on whether  
9 the exhibit lists are said to comply with Rule 119(2) or whether  
10 there are still any pending matters.

11 We'll first turn to the Defence for Thaci.

12 MR. MISETIC: I'm unclear on what specifically you're  
13 referencing in 119(2).

14 PRESIDING JUDGE SMITH: Your mic is not turned on.

15 MR. MISETIC: It is on. Maybe you need your --

16 PRESIDING JUDGE SMITH: My earplugs are not in. One of us had  
17 to be wrong.

18 MR. MISETIC: It's usually me, Your Honour.

19 PRESIDING JUDGE SMITH: All right. Go ahead.

20 MR. MISETIC: It was unclear to me as to which provision of  
21 Rule 119(2) you're referring to. Is that 119(2)(b) --

22 PRESIDING JUDGE SMITH: The second -- subpart (2).

23 MR. MISETIC: (b), is that what you're referring to?

24 PRESIDING JUDGE SMITH: I only wrote down sub (2), so (b) is  
25 correct, yes.

1 MR. MISETIC: Yes, all the exhibits we've listed on the exhibit  
2 list are exhibits we intend to present at trial.

3 PRESIDING JUDGE SMITH: Does the SPO wish to respond to that?

4 MR. HALLING: We have no additional observations on the revised  
5 list.

6 PRESIDING JUDGE SMITH: Ms. Alagendra or --

7 MR. ELLIS: We understand that we've complied.

8 PRESIDING JUDGE SMITH: All right. We just want to make sure  
9 that that's everyone's position.

10 Regarding the witness list, on 5 and 7 August 2025, the Thaci  
11 Defence disclosed the identity and information required pursuant to  
12 Rule 119(2) for three additional Defence witnesses. The Panel  
13 understands that the Thaci Defence disclosed this morning the  
14 summaries for the remaining witnesses that it intends to call.

15 The Panel would therefore like to confirm with the Thaci Defence  
16 that they have disclosed all information in accordance with  
17 Rule 119(2)(a)(iv). At the same time, the Panel invites the parties  
18 to raise any outstanding issue pertaining to witnesses which the  
19 Defence intends to call.

20 MR. MISETIC: Just to be clear, we have, to this point,  
21 disclosed the identities of all witnesses. We have disclosed  
22 statements for seven. One of the disclosed witnesses will have a  
23 statement that will also be disclosed but is waiting a final Rule 107  
24 clearance which we expect to receive this week from the United  
25 Kingdom, and then the statement will be signed and immediately

1 disclosed to the parties.

2 There are four witnesses for whom we've disclosed the identity  
3 but have not disclosed summaries or statements. They are 1DW007,  
4 1DW008, 1DW010 and W04174.

5 PRESIDING JUDGE SMITH: Can I ask if you can give us a date by  
6 which you will have those on file?

7 MR. MISETIC: May I defer to Mr. Prosper on this?

8 PRESIDING JUDGE SMITH: Yes, sure.

9 MR. MISETIC: Thank you.

10 MR. PROSPER: Good morning.

11 PRESIDING JUDGE SMITH: Good morning.

12 MR. PROSPER: Well, first, let me say it's a pleasure to appear  
13 before you. It's my first appearance before this Chamber.

14 The answer is, though, we don't know. The requests are in and  
15 have been in with the providers, and I think in this case I can say  
16 it is the United States Government. We have been in active  
17 communication with them, and they tell us they are actively working  
18 on this request.

19 PRESIDING JUDGE SMITH: Are they aware of the date that the  
20 hearings are going to begin?

21 MR. PROSPER: They are.

22 PRESIDING JUDGE SMITH: At some point, you know, it'll be too  
23 late, so they need to know that there will be a time limit and they  
24 are going to have to comply with it. And if they cannot comply with  
25 it, then that witness is not going to be heard.

1 MR. PROSPER: Well, they are fully aware. And, Your Honour,  
2 just for the purposes of the record and some clarification on the  
3 issue of the admissibility of these witnesses when it does occur is,  
4 as you can see, we have an extraordinary list of witnesses. And I'm  
5 not prepared or can say these names in public, but we have people  
6 that have significant stature, and there is other people that I feel  
7 confident would be here but they are no longer with us such as  
8 Secretary Albright, Richard Holbrooke, Senator Dole, and others.

9 The information that we have is exculpatory information, so it's  
10 important for us to put this in context. It's exculpatory and it's  
11 material. It's not witness -- let's say a character witness. The  
12 type of information will go directly to the core and the heart of the  
13 Prosecution's case and its theory. And as we know, in jurisdictions  
14 such as Germany, the United States, and Switzerland, exculpatory  
15 information is given incredible amount of preference and weight, to  
16 the point that if it's a magistrate judge, he or she has a duty to  
17 investigate exculpatory information with equal vigour. And as we  
18 know in the United States, if exculpatory information is not  
19 introduced, it can be reversible error. In the Yugoslav tribunal,  
20 exculpatory information is admissible up until the time of judgment.  
21 So --

22 PRESIDING JUDGE SMITH: Mr. Prosecutor, I'm not asking you to  
23 give us a reason --

24 MR. PROSPER: No --

25 PRESIDING JUDGE SMITH: -- why you can't do it. I'm asking you

1 to tell me when you're going to do it --

2 MR. PROSPER: Yeah, I'm about to --

3 PRESIDING JUDGE SMITH: -- and that's all.

4 MR. PROSPER: Yeah. So my point is, to put into context, I  
5 think we need to be aware of this as we start to try to impose  
6 timelines.

7 But one thing I will share with you on this subject is a letter  
8 I received yesterday from the United States Government, and I'll read  
9 it, which is -- it goes to the timeline.

10 PRESIDING JUDGE SMITH: All right. Go ahead. Read that portion  
11 only.

12 MR. PROSPER: Yeah. Well, in fact, I'll just -- I'll give it to  
13 the Trial Chamber, but I'd like it to be part of the record.

14 PRESIDING JUDGE SMITH: I'm not asking you to amend your record  
15 at this point. I'm asking you about the dates. You say you have a  
16 date -- something relative to the date. You may read that and  
17 nothing else. Please proceed.

18 MR. PROSPER: Well, on that last part it says:

19 "I cannot predict exact timing of those decisions. We are  
20 working on them as expeditiously as possible."

21 If you'd like the whole letter --

22 PRESIDING JUDGE SMITH: No, that's for you. If you want to  
23 introduce it, that would have to be considered evidence and we aren't  
24 accepting evidence today.

25 MR. PROSPER: Okay.

1           PRESIDING JUDGE SMITH: And thank you for your information.

2           MR. PROSPER: Thank you.

3           PRESIDING JUDGE SMITH: Please advise those people that if they  
4 want these witnesses to testify, they need to have it done or we will  
5 have problems with this in the future.

6           MR. PROSPER: Correct.

7           PRESIDING JUDGE SMITH: Thank you.

8           JUDGE METTRAUX: Mr. Misetic, you were too fast for the  
9 transcript. You mentioned four witnesses for whom you haven't  
10 disclosed statements or summaries, and the record only included 1DW7,  
11 8, but not the other two. Could you put the other two on the  
12 transcript, please?

13          MR. MISETIC: Yes. So I believe, if I'm correct, it's five  
14 witnesses, one of whom is - just let me get the code - 1DW006. His  
15 summary has been disclosed and we're just awaiting -- we've been told  
16 that the letter authorising disclosure is coming this week from the  
17 United Kingdom, so he'll then sign -- the statement essentially is  
18 what's in the summary, so there is no prejudice to anyone, and you'll  
19 have that, I expect, this week.

20          The remaining witnesses were, and I'll just read them all again,  
21 1DW007, 1DW008, 1DW010, and W04174. And, Mr. President, in response  
22 to your inquiry that Mr. Prosper answered, I do wish to note that  
23 we've asked the United States to watch the Status Conference this  
24 morning so they are aware of your position. Thank you.

25          PRESIDING JUDGE SMITH: Thank you very much.

1 Do you wish to be heard?

2 MR. HALLING: Yes, on a couple matters related to this.

3 PRESIDING JUDGE SMITH: Yes, go ahead.

4 MR. HALLING: First, we would support setting a timeline at this  
5 juncture. There was already a deadline for this. It was yesterday.  
6 And we acknowledge things have gotten better since the hearing in  
7 July. Progress has been made and we wanted to acknowledge that. But  
8 yesterday wasn't the deadline for better, it was the deadline for it  
9 to be solved.

10 And we think a timeline might also help the providers to kind of  
11 organise themselves knowing what the Panel's expectations are. So  
12 we're not asking for a timeline to be set punitively, but we think  
13 this might actually help facilitate the kind of compliance and  
14 cooperation that the Thaci Defence is saying they need.

15 The other point that I wanted to mention is something about our  
16 own preparation, and I can make this quite straightforward. In  
17 general, we need a month. We need a month from when we get  
18 disclosure of the statement to when the witness is actually coming to  
19 testify. As Mr. Misetic just mentioned, there are five witnesses out  
20 of the 11 they intend to call where we don't have clearance for  
21 statements, we don't have their statements, and they don't have  
22 clearance to testify.

23 And for 1DW006 in particular, we are very concerned that he is  
24 fourth in the order right now, and they don't even have clearance to  
25 finalise his statement. It's encouraging to hear that it's happening

1     this week. We were also told it was going to happen by yesterday.  
2     So we would actually suggest that for that witness we would move him  
3     to the back of the order and put him seventh, and that, barring  
4     immediate improvement, none of these five uncleared witnesses should  
5     be expected to testify in the first block.

6             MR. MISETIC: Mr. President, may I respond?

7             PRESIDING JUDGE SMITH: Yes.

8             MR. MISETIC: They have no basis to object to 1D6. He's a live  
9     witness. He's not a 154 witness. We have no obligation to provide a  
10    statement in the first place, so the statement is just a courtesy to  
11    them and to the Panel because we're not tendering that statement.

12            I've already disclosed the summary in quite some extensive  
13    detail of what he's going to testify about. The 30 days, they've had  
14    more than 30 days in possession of the summary of what he's going to  
15    testify about live, so there is no additional disclosure that is  
16    required for that witness.

17            With respect to the deadline, I can assure you that every  
18    provider from your last order was given a deadline of August 18th,  
19    which is why I believe 1DW003 was disclosed to us yesterday midday so  
20    that we could turn it around as fast as possible and get it to you  
21    yesterday. So it's not like these providers were not given a  
22    deadline before. And despite that deadline, and Mr. Prosper can tell  
23    you in more detail if you wish, but there was a change in  
24    administration in the United States. There were also changes to the  
25    US Department of War Crimes within the State Department a few weeks

1 ago which eliminated the department which we believe has caused some  
2 delay. That is outside of our control.

3 Mr. Proper has given you submissions on the importance of these  
4 witnesses. We have received assurances that the relevant people  
5 within the United States Government are keenly aware of the pressure  
6 that we've been put under by the Panel to get these issues resolved.  
7 They are working as expeditiously as possible. That's why we got  
8 1DW003 yesterday. And we have told them that we need a resolution of  
9 this as soon as possible, and we've told them the start date for the  
10 Defence case is likely to be September 15th.

11 PRESIDING JUDGE SMITH: Yes, it will be September 15th, but I  
12 need you to consider seriously moving those people back in your order  
13 to the end of your presentation of witnesses so that this can be  
14 done.

15 MR. MISETIC: Yes. We have not put -- the witnesses that are  
16 not cleared have not been put in the first block of witnesses.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. MISETIC: Well, they are at the end, which is --

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. MISETIC: Yes. Our intention, and we can discuss this  
21 later, is for those witnesses that we would call them at the end of  
22 our Defence case.

23 MR. HALLING: And --

24 MR. MISETIC: And let me just make one additional point. The 30  
25 days -- you will, of course, be aware that the Prosecution received

1 orders that the Defence was not allowed to even know the identity of  
2 certain witnesses until 30 days before their testimony, so 30 days  
3 should be sufficient for the Prosecution to do the same.

4 PRESIDING JUDGE SMITH: Thank you.

5 MR. HALLING: And, Your Honour, our concern is that we're not  
6 going to get those 30 days. What Mr. Misetic just said is not  
7 entirely correct. 1DW006 is in the order for the first block and is  
8 not cleared as of this moment. And when I say a month, the reason  
9 why that timeline was picked is that follows naturally from the Order  
10 on the Conduct of Proceedings. Paragraph 74 of the order requires  
11 the statements that are being provided to be included in that order.  
12 It can't be complete at this point because they don't have all of the  
13 statements cleared.

14 And paragraph 73 on the Order on the Conduct of Proceedings  
15 required us in our case to provide that complete information one  
16 month prior to the completion of the last witness testimony in the  
17 previous group. And so we're just asking for the same month the  
18 Defence was entitled to by rule, and, of course, in practice, the  
19 Defence actually had the SPO statements for many witnesses for much  
20 longer than that, often even years before they came. We think it's a  
21 reasonable ask.

22 MR. MISETIC: Mr. President, let me again emphasize, Rule 104 is  
23 quite clear that the Defence does not have to provide any statement  
24 for any of its witnesses. It quite clearly says they are -- we are  
25 to disclose statements, if any, to the Prosecution.

1           The fact that clearance is coming this week is of little  
2   difference to the Prosecution. They've had all the material  
3   information they need for more than a month now to be ready with this  
4   witness. The fact that clearance is coming is something for us to be  
5   concerned about, not them. And the fact that a signed statement is  
6   coming, which will essentially just be a repeat of what's already in  
7   the statement except with a signature on it, is, again, for the  
8   benefit of the Panel and the other parties, but it doesn't change the  
9   fact that they are already on notice of what the testimony is going  
10   to be about, and they've had more than enough time to prepare their  
11   cross-examination of the witnesses.

12           PRESIDING JUDGE SMITH: Thank you, Mr. Misetic.

13           JUDGE GAYNOR: Mr. Misetic, can I just ask you a question about  
14   disclosure to the Prosecution. Is it your intention to carry out  
15   preparation sessions in advance of testimony with your international  
16   witnesses?

17           MR. MISETIC: It is our intention because, as you saw yesterday  
18   in our filing, we have certain documents that we wish to tender  
19   through those witnesses. So we will do preparation sessions and  
20   disclose notes once we put the documents and see what they have to  
21   say about them.

22           JUDGE GAYNOR: So you will disclose notes to the Prosecution and  
23   the Panel --

24           MR. MISETIC: Yes.

25           JUDGE GAYNOR: -- of your sessions?

1 MR. MISETIC: Yes.

2 JUDGE GAYNOR: Thank you.

3 PRESIDING JUDGE SMITH: Mr. Laws, at any time - I don't mean to  
4 jump over you - if you have something you need to add, feel free to  
5 stand and let us know what it will be.

6 MR. LAWS: I certainly will. Thank you, Your Honour. There is  
7 one thing, but I'm happy to deal with it later on in the proceedings.

8 PRESIDING JUDGE SMITH: All right. So we will resolve this at  
9 some point if necessary with a written order with any deadline that  
10 we feel is adequate and just and fair to all the parties. Thank you  
11 for your input on this.

12 Pursuant to Rule 119(3) --

13 MR. MISETIC: Mr. President.

14 PRESIDING JUDGE SMITH: -- there are certain matters the  
15 Panel -- oh.

16 MR. MISETIC: I apologise.

17 PRESIDING JUDGE SMITH: That's all right.

18 MR. MISETIC: I apologise. I should have said this additional  
19 point with respect to 1D006. We've put the order together trying to  
20 keep in mind the availability of witnesses. So it's also important  
21 that -- for our purposes to call 1D006 because if we can't call him,  
22 then we have to go back and try to figure out how we can fill that  
23 time with other witnesses and their schedules and availabilities.  
24 Thank you.

25 JUDGE METTRAUX: Mr. Misetic, while you're on your feet, I

1 wasn't clear, the unsigned statement of 006 has been disclosed  
2 already?

3 MR. MISETIC: No, it has not because we did not get clearance  
4 from the UK to disclose it, but I will say we've been told informally  
5 that the formal letter authorising signature and disclosure of the  
6 statement is coming and is likely coming this week.

7 JUDGE METTRAUX: Thank you.

8 MR. HALLING: And if it assists, where this information appears  
9 in the Thaci Defence filing, it's F03406/A02, and it's page 40, where  
10 they say that they still don't have clearance to finalise and  
11 disclose this statement.

12 PRESIDING JUDGE SMITH: All right. Thank you for that.

13 So pursuant to Rule 119(3), there are certain matters that the  
14 Panel may address at the Defence Preparation Conference. I recall  
15 that we may determine the number of witnesses the Defence may call;  
16 instruct the Defence to remove repetitive witnesses; determine the  
17 time available for the Defence for presenting evidence; and/or,  
18 three, request the Defence to shorten the estimated length of the  
19 direct examination of any witness identified on the Defence witness  
20 list.

21 While these steps are within the Panel's authority, the Panel  
22 considers that the manner of presentation is primarily the  
23 responsibility of the calling party and sees no issue with the  
24 witness list at the present time.

25 For now, I wish to ask Thaci and Krasniqi Defences some

1 questions about their cases. First of all, as to the mode of  
2 testimony. The first issue the Panel wants to address is the mode of  
3 testimony of the Defence witnesses.

4 At the last Status Conference, the Thaci Defence informed the  
5 Panel that it intends to call 11 out of 12 witnesses to testify in  
6 court, but some of those witnesses will testify either live or as  
7 Rule 154 witnesses and which will depend on the Rule 107 clearance;  
8 and, two, the Krasniqi Defence informed the Panel that the modes of  
9 testimony for its witnesses will be two Rule 154 witnesses, two  
10 Rule 153 witnesses, and one Rule 155 witness.

11 Can I please confirm with the Thaci Defence whether there is any  
12 update and the Krasniqi Defence whether these modes of testimony are  
13 still accurate?

14 Starting with Thaci Defence.

15 MR. MISETIC: Yes. Since the last Status Conference, we now  
16 confirm that 1DW006 and 1DW008 will be live and not Rule 154  
17 witnesses. Otherwise, the status or mode of testimony remains the  
18 same.

19 PRESIDING JUDGE SMITH: Are there still some unknowns on there?

20 MR. MISETIC: Not at the moment.

21 PRESIDING JUDGE SMITH: Okay. Thank you.

22 Yes?

23 MR. ELLIS: Your Honour, it is the same as we said previously.

24 PRESIDING JUDGE SMITH: I'm sorry?

25 MR. ELLIS: It's exactly the same as we said previously, yes.

1           PRESIDING JUDGE SMITH:   Okay.   Thank you.

2           MR. ELLIS:   Can I just add at this point --

3           PRESIDING JUDGE SMITH:   Certainly.

4           MR. ELLIS:   -- that we also intend to carry out preparation  
5 sessions with the two witnesses who are Rule 154.

6           PRESIDING JUDGE SMITH:   Thank you for that info.

7           Now as to the estimated time for direct examination, following  
8 on from the previous question, the Panel would like to inquire if the  
9 Thaci and Krasniqi Defence can update the Panel as to any changes in  
10 the estimated time for direct examination of the witnesses.

11          MR. MISETIC:   Yes.

12          PRESIDING JUDGE SMITH:   And you don't need to go through it item  
13 by item.   You can do it the total.

14          MR. MISETIC:   Yes, we updated it yesterday and revised up to a  
15 total of 35.5 hours.   That is mostly because two of the witnesses are  
16 now live, and there are -- we factored in that there are a lot of  
17 documents that we are going to try to tender through these witnesses  
18 which will increase the amount of direct examination.   However, we  
19 are also going to reach out to the SPO to see if some of the  
20 documents that are on our list can be admitted by agreement.

21          PRESIDING JUDGE SMITH:   That was just what I was going to  
22 suggest, so thank you for that.

23          MR. MISETIC:   Thank you.

24          PRESIDING JUDGE SMITH:   And Krasniqi?

25          MR. ELLIS:   It hasn't changed, Your Honour.   It's still the same

1 figures that were given before.

2 PRESIDING JUDGE SMITH: Fine. And you had one 154?

3 MR. ELLIS: Two Rule 154 witnesses.

4 PRESIDING JUDGE SMITH: Two, okay.

5 MR. ELLIS: And --

6 PRESIDING JUDGE SMITH: Have you delivered any of this material  
7 to the SPO yet?

8 MR. ELLIS: The statements have been --

9 PRESIDING JUDGE SMITH: Okay.

10 MR. ELLIS: -- disclosed -- were disclosed before the last  
11 hearing, I think.

12 PRESIDING JUDGE SMITH: In respect of the order of the witnesses  
13 that you intend to call, that the two calling parties intend to call  
14 to testify in court either as live witnesses or Rule 154 witnesses,  
15 can the Defence update the Panel as to whether there is any further  
16 information on the order of witnesses - and we've discussed that  
17 briefly - and that may be the secret to getting adequate notices to  
18 everybody, is to move these witnesses around a bit. I'll ask you to  
19 update that if you have an update at this time.

20 MR. MISETIC: In our filing of this morning, we put together a  
21 tentative order of witnesses, so you already have that. The four  
22 witnesses we've discussed that we're still awaiting clearance on are  
23 in the back half of the order, so that's what we intend to do so --  
24 thus far, and that is to take into account the fact that we hope to  
25 get clearance in the near future but then to call them in October.

1           PRESIDING JUDGE SMITH: Anything from the Krasniqi Defence?

2           MR. ELLIS: I don't think I have anything to add, Your Honour.  
3 We have two witnesses and we intend to call them in the order in  
4 which they appear.

5           PRESIDING JUDGE SMITH: Fine. Thank you.

6           SPO wish to be heard on this?

7           MR. HALLING: The main issue with the order we've already  
8 mentioned, Your Honour.

9           PRESIDING JUDGE SMITH: Well, I will say this. There is a  
10 couple of weeks before we start, and we may have some time to play on  
11 when these witnesses are placed in the batting order, so to speak.  
12 So hopefully we can give SPO adequate notice, and you can get your  
13 witnesses all here and lined up.

14           I count 35 trial days between now and December if we adopt the  
15 tentative schedule that we are thinking of adopting, and I'm pretty  
16 sure will adopt, and that seems to be adequate, with five hours per  
17 session, to handle all of this.

18           MR. MISETIC: Yes, I would agree that that would be -- that  
19 would be perfectly fine from us. And I would appreciate that because  
20 given the -- to use Mr. Prosper's word, the stature of some of these  
21 people, it isn't easy to have them lined up and in the waiting room  
22 to be brought forward right after one witness is finished. And we  
23 don't have the benefit yet of the SPO's estimates of  
24 cross-examination to --

25           PRESIDING JUDGE SMITH: We'll get to that.

1 MR. MISETIC: Yes, but that is --

2 PRESIDING JUDGE SMITH: Yeah.

3 MR. MISETIC: -- also a factor that, at the moment, inhibits our  
4 ability to tell you we'll have this witness on the 15th, and have  
5 this one ready to go on the 16th, et cetera, et cetera. So to have  
6 some flexibility in the calendar you just proposed I think would be  
7 beneficial to us certainly.

8 PRESIDING JUDGE SMITH: I don't know what you mean by  
9 flexibility on the calendar. We need to use those days. You may  
10 have to jockey a witness around to --

11 MR. MISETIC: I mean within the frame that you discussed, we --  
12 we believe we certainly can fit all of these people within that frame  
13 and with enough time for cross-examination and Judges' questions.

14 PRESIDING JUDGE SMITH: Also the Panel would wish to invite the  
15 Thaci Defence especially to consider the fact that if two or more  
16 witnesses are to be accompanied by a representative of the same state  
17 or the same organisation, that those witnesses be called in  
18 succession so that that representative does not have to be  
19 transported here on two separate occasions. It would be helpful to  
20 the Registrar and to the Panel itself to have them appear  
21 back-to-back, so to speak.

22 MR. MISETIC: We do have -- and we're not yet sure about the  
23 provider that is -- has authorised 1DW005 and 1DW006, but you can see  
24 we did put them back-to-back. So that provider to would not have to  
25 have an issue.

1           PRESIDING JUDGE SMITH: That would be helpful to everybody.

2           MR. MISETIC: There is one matter that this may be an issue  
3 about, and you will see that 1DW003 is relatively early in the order,  
4 and then the remaining witnesses upon whom we're awaiting clearance,  
5 out of necessity we've had to push them towards the back, and that's  
6 really not something that we can avoid given the time we need to give  
7 the Prosecution in terms of notice. Thank you.

8           PRESIDING JUDGE SMITH: Thank you.

9           Defence or SPO wish to respond in any way on this?

10          MR. HALLING: Not on these points, Your Honour.

11          PRESIDING JUDGE SMITH: Mr. Laws, anything here?

12          MR. LAWS: No, thank you, Your Honour.

13          PRESIDING JUDGE SMITH: I want to move on to the Rule 153 and  
14 155 motions.

15          And at the Status Conference on 22 July, the Panel suggested  
16 that the parties engage in *inter partes* discussions regarding the  
17 filing dates for the Rule 153 and 155 motions, and it is especially  
18 helpful to the Panel to have those as soon as possible because they  
19 are time-consuming to respond to, and we want to respond to them as  
20 fully and completely as possible.

21          Can I get an update on whether there have been any discussions  
22 and whether a date has been reached? In particular, can the Thaci  
23 and the Krasniqi Defence teams tell us when they plan to file such  
24 motions?

25          MR. MISETIC: Unfortunately, Your Honour, we did not reach out

1 to the Prosecution on that, but it is our intention to file our one  
2 Rule 153 motion before September 15th.

3 PRESIDING JUDGE SMITH: Is it possible to get a little bit in  
4 advance of that?

5 MR. MISETIC: We will do our best to do that, but we only have  
6 one motion at the moment under 153. 155, we don't currently have  
7 any, but there is one witness on our list that that may become  
8 relevant later, but that depends on how things transpire with WPSO.  
9 Thank you.

10 PRESIDING JUDGE SMITH: Thank you.

11 Yes.

12 MR. ELLIS: Yes, so we have three witnesses that we would need  
13 to make a filing for: Two Rule 153 and one Rule 155. We were going  
14 to do that together in one filing. And we were also intending to try  
15 to do that before 15 September, so before the start of the oral  
16 evidence from the Defence.

17 PRESIDING JUDGE SMITH: If the Panel were considering setting a  
18 deadline on the filing of all those that would not be 15 September,  
19 it would be something earlier, could you give me what you believe you  
20 could deal with? In other words, is it possible for, like, 5  
21 September to have those on file, or the 10th?

22 MR. MISETIC: The 10th. If you've given me two options, then  
23 I'll take the 10th.

24 PRESIDING JUDGE SMITH: How about the 9th?

25 MR. MISETIC: I think the 10th sounded better to me.

1 PRESIDING JUDGE SMITH: Krasniqi Defence?

2 MR. ELLIS: Something similar, Your Honours.

3 PRESIDING JUDGE SMITH: Okay. Is that going to be of assistance  
4 to the SPO?

5 MR. HALLING: Yes, it would, and we're able to respond in the  
6 statutory limit from whatever the date is.

7 PRESIDING JUDGE SMITH: Yes, okay.

8 Judge Mettraux.

9 JUDGE METTRAUX: Thank you. I have one question for you,  
10 Mr. Halling, in relation to 1DW002, that's the one Rule 153 witness  
11 that the Thaci Defence proposes to tender. So you haven't, of  
12 course, seen the application to that effect, but you know who the  
13 witness is and what he's to testify about. Do you expect to object  
14 to the tender pursuant to Rule 153, to the extent you can say today?

15 MR. HALLING: It's hard to say without seeing the application.  
16 The more -- the larger issue that we see is that this is a Rule 154  
17 witness for the Krasniqi Defence, and it was a question that we had  
18 of whether it's even worth litigating a Rule 153 motion when this  
19 Thaci Defence statement can simply be resolved through the Rule 154  
20 procedure and that this witness sort of testify kind of to both  
21 statements at once.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Have you approached the Krasniqi Defence to see if that's a  
24 possibility?

25 MR. HALLING: We were waiting for them to come to us, truth be

1 told, but I plant the idea now and any reaction is welcome.

2 PRESIDING JUDGE SMITH: It's not a good time to be reluctant. I  
3 suggest you get together and talk about this because it could save us  
4 a considerable period of time.

5 MR. MISETIC: Sure, we can talk about it. But just  
6 procedurally, then he becomes a Krasniqi witness on that issue as  
7 well. And the only reason I'm hesitant, and I'll just put it on the  
8 record, is that once we rest our case, I can't control what happens  
9 in the Krasniqi Defence case. If for some reason he doesn't satisfy  
10 Rule 154 requirements, or et cetera, are you going to let me reopen  
11 the Thaci case and tender it under Rule 153. But we can have these  
12 discussions if you wish.

13 PRESIDING JUDGE SMITH: [Microphone not activated] ... for you  
14 all to discuss this and come to some sort of agreed solution then for  
15 us, but I realise that that isn't always possible. So if you can't,  
16 we'll have to deal with it as it sits, I take it.

17 At the July 22 Status Conference, the Krasniqi and Thaci  
18 Defences informed the Panel that with the exception of one witness,  
19 it does not intend to apply for protective measures for any  
20 witnesses. Is that still the case? Can you confirm that and whether  
21 you have discussed with prospective witnesses if they wish protective  
22 measures.

23 MR. MISETIC: It is correct, with the caveat, of course, the  
24 distinction between protective measures and Rule 107 measures. We  
25 have not specifically asked these witnesses if they want protective

1 measures, but some of the providers have asked for Rule 107 measures  
2 and we will file those applications in due course, well before they  
3 testify, obviously.

4 PRESIDING JUDGE SMITH: Yes.

5 MR. ELLIS: None at the moment, Your Honour.

6 PRESIDING JUDGE SMITH: Any response?

7 MR. HALLING: Actually, the Rule 107 application seems to be the  
8 bigger issue with this particular set of witnesses. A deadline of  
9 something like three weeks prior, the same as the Rule 154 deadline,  
10 might be of assistance.

11 PRESIDING JUDGE SMITH: Thank you.

12 Do you wish to respond to that, suggest a deadline?

13 MR. MISETIC: With respect to those that are in the first block  
14 of witnesses, I don't know if three weeks is -- we're already past  
15 the three-week deadline, I believe, or -- it's this week.

16 PRESIDING JUDGE SMITH: This week is the three-week deadline.

17 MR. MISETIC: Yeah, I don't think we'll be able to have the  
18 Rule 107 motions for those witnesses filed this week. For the back  
19 half --

20 PRESIDING JUDGE SMITH: For it to be filed by next week?

21 MR. MISETIC: Yes, next week should be okay.

22 PRESIDING JUDGE SMITH: All right.

23 JUDGE GAYNOR: Just a quick question. Mr. Misetic, do you  
24 anticipate that your Rule 107 witnesses will be testifying almost  
25 completely in public session?

1 MR. MISETIC: I don't want to say 100 per cent because there may  
2 be something that needs to be in private session, but, yes, it is our  
3 goal to make sure that they all testify in public session.

4 JUDGE GAYNOR: Thank you.

5 PRESIDING JUDGE SMITH: As provided by Rule 119(3)(d), the Panel  
6 further wants to confirm with the Thaci Defence that there are no  
7 outstanding disclosure obligations under Rule 104(5), except those  
8 under Rule 107 that we've discussed several times already, and to ask  
9 for an update with regard to the 30 documents it said awaited  
10 Rule 107 clearance at the last Status Conference. Specifically, can  
11 the Thaci Defence confirm for how many documents Rule 107 clearance  
12 remains pending and expected dates for clearance.

13 MR. MISETIC: With respect to remaining documents that need  
14 Rule 107 clearance, those are only two documents. One is -- we've  
15 already discussed the 1DW006's signed statement, which we hope to get  
16 to you this week, and 1DW003's signed statement, the unsigned version  
17 of which was disclosed to you last night. So those are the only two.

18 The remaining Rule 107 documents, the 30 that we referenced  
19 before, have all been cleared and were all disclosed and are on our  
20 exhibit list.

21 With respect to our disclosure obligations, and in response to  
22 an SPO e-mail of last night, for all non-Rule 107 witnesses, all  
23 statements that we have have been disclosed. For all Rule 107  
24 witnesses, all statements authorised for disclosure by the Rule 107  
25 provider have been disclosed or will be disclosed once authorised.

1           PRESIDING JUDGE SMITH:   Response?

2           MR. HALLING:   Yes.   That last thing was the key point for us,  
3   because the parties disagree on the scope of the Defence's disclosure  
4   obligations.   This was discussed at length at the hearing in July and  
5   briefly even earlier today.   But as long as all the statements keep  
6   getting disclosed, there is no need for us to formally litigate it.  
7   We were talking about 1DW006, regardless of what the Defence thinks  
8   of its obligations, they've given an affirmation they will disclose  
9   the statement once cleared, and as long as that continues to happen  
10   we have what we need and what we're entitled to.

11          PRESIDING JUDGE SMITH:   Nothing to reply?   [Microphone not  
12   activated].

13          The Panel would also like to confirm with the Krasniqi Defence  
14   that it has complied with its disclosure obligations under  
15   Rule 104(5) as already confirmed during the last Status Conference in  
16   July; and, two, that all documents for which Rule 107 clearance was  
17   previously pending have now been disclosed as notified via e-mail  
18   last week?

19          MR. ELLIS:   Yes, I confirm.

20          PRESIDING JUDGE SMITH:   Thank you.

21          Yes, Judge Mettraux.

22          JUDGE METTRAUX:   A clarification from you, Mr. Misetic.   The  
23   date of September 10 would apply to your Rule 154 witnesses as well?

24          MR. MISETIC:   As we said in our filing of yesterday, for the  
25   Rule 154 witnesses that are coming in the September block, we intend

1 to file them by the end of this week.

2 JUDGE METTRAUX: Thank you. And for the remainder, Mr. Misetic,  
3 once clearance is obtained?

4 MR. MISETIC: That is correct.

5 PRESIDING JUDGE SMITH: The Panel recalls that, in filing  
6 F03371, it informed the parties and participants that it intended to  
7 set the date for the opening of the Defence case as Monday,  
8 15 September 2025. The Panel has already received extensive  
9 submissions on that point. However, we will afford the parties to  
10 supplement these submissions if there are any new updates that they  
11 consider might affect that date. The Panel is mindful of the fact  
12 that the SPO case is closed since 15 April and it has already granted  
13 a Defence extension in respect of the commencement of its case.

14 So I'll just ask if there is anything further to deal -- or  
15 would delay those starting dates other than what we've already  
16 discussed today.

17 MR. MISETIC: No, Mr. President. We have been operating under  
18 the assumption that we're starting on the 15th, and that's what we've  
19 been relating to our witnesses in the first block in terms of trying  
20 to organise their appearance.

21 PRESIDING JUDGE SMITH: And the Krasniqi Defence?

22 MR. ELLIS: Nothing to add beyond that, Your Honour.

23 PRESIDING JUDGE SMITH: Just because you've been sitting there  
24 alone and unspoken to for so long, I'll ask Mr. Dixon, do you know of  
25 any reason why there should be a delay?

1 MR. DIXON: No, Your Honour, I don't.

2 PRESIDING JUDGE SMITH: Yes. And from the Selimi Defence?

3 MR. ROBERTS: No, Your Honour.

4 PRESIDING JUDGE SMITH: All right.

5 Mr. Laws, any reason from you?

6 MR. LAWS: Your Honour, no.

7 PRESIDING JUDGE SMITH: And the SPO?

8 MR. HALLING: Nothing further. We'll be ready.

9 PRESIDING JUDGE SMITH: So this will be an oral order.

10 After having heard the parties and the participants, pursuant to  
11 Rule 119(4), the Panel sets the date for the opening of the Defence  
12 case to Monday, 15 September 2025.

13 The tentative schedule is on file with KOSMOS and I'm sure  
14 you've all seen it. There is one change that has to be made.  
15 25 September, which is a Thursday, the Panel is unavailable that day,  
16 and so that single date will be cancelled. We wanted to try to do it  
17 just in the -- have a morning session, but that has become impossible  
18 as well. So the 25th, Thursday, of September is cancelled from the  
19 schedule. The rest of the schedule remains as stated in KOSMOS, and  
20 a final schedule will be submitted through CMU and be posted on  
21 KOSMOS as soon as possible.

22 This concludes the oral order.

23 Now, we get into the speculative part of the programme.  
24 According to Rule 119(4), the Panel shall also set a target date for  
25 the closing of the Defence case pursuant to Rule 131.

1 And to assist the Panel in setting a target date for the closing  
2 of the Defence case, what is the Thaci and Krasniqi Defences'  
3 estimates for how long it will take to present your respective cases,  
4 and what would be the approximate date when you would hope to have  
5 presented and completed the presentation of your respective cases?

6 Start with Thaci.

7 MR. MISETIC: Mr. President, I believe you mentioned the block  
8 into December, which we will complete it by that date. So what --

9 JUDGE METTRAUX: [Microphone not activated].

10 MR. MISETIC: Yes. So what we would propose is by the end of  
11 November to complete all testimony and then to have some time  
12 thereafter, just like the Prosecution had, in case there are any  
13 residual written motions that we need to file, any last bar table  
14 motion for any -- essentially for any documents that weren't tendered  
15 through a witness to be filed, and then we would close our case like  
16 the Prosecution did.

17 PRESIDING JUDGE SMITH: Let me ask about the bar table again,  
18 and I want a straight answer this time.

19 MR. MISETIC: I always try to give you straight answers, Judge,  
20 so ...

21 PRESIDING JUDGE SMITH: The last time it was a little bit  
22 tongue-in-cheek. But anyway, we would like to know as soon as  
23 possible when we can get those on file. And I realise there can  
24 always be something hanging over at the end, but we're not expecting  
25 40 or 50 of them filed on the final day.

1 MR. MISETIC: I have no doubt that last-minute large bar table  
2 submissions on the last day are probably very burdensome for you as  
3 they were for us. So our intent is to file bar table motions on a  
4 rolling basis. So currently we expect that you will have at least  
5 one and potentially two bar table motions filed before the  
6 15 September Defence case starts. There may be some more while the  
7 Defence case is pending. And then, as I said, I'd like to have an  
8 opportunity at the end for any -- basically for any documents that we  
9 couldn't get tendered through a witness, to be able to file them as a  
10 bar table motion at the end.

11 PRESIDING JUDGE SMITH: Krasniqi Defence?

12 MR. ELLIS: Yes. In terms of the time estimate for our case,  
13 obviously, I'm speaking at the moment without sight of  
14 cross-examination estimates, but for the two Rule 154 witnesses that  
15 we will call, I would estimate one week.

16 Now, the difficulty with setting a completion date based on that  
17 is it obviously depends on when we start them, which hinges on the  
18 Thaci Defence case.

19 In terms of bar tables, we would also plan to file them on a  
20 rolling basis. It's likely there would be at least a residual bar  
21 table motion that would come right at the end, I'm afraid. As to  
22 when the first will be filed, I'm not sure we are ready to do it  
23 before 15 September, but we will try and do on a rolling basis.

24 JUDGE METTRAUX: Mr. Misetic, I think you're the primary target  
25 of the question.

1           You've given us an estimate of 35.5 hours for your witnesses.  
2       Now, by my account, it's about seven days of testimony in chief.  
3       Assuming seven days of cross-examination, that would be 14 days of  
4       hearings. How do we get to December?

5           MR. MISETIC: Well, we were discussing before the issue of  
6       getting these witnesses and their schedules aligned. So my intention  
7       is to try to get them, if I can, one after another, but I can't  
8       promise you that that's going to be the case given some of these  
9       people and their commitments and schedules.

10          So I don't want to leave large blocks of time vacant, but I was  
11       following up on Judge Smith's assessment of the time available, and  
12       I'm saying that we will finish our case before the end of November.  
13       I would hope that we will actually finish by the end of October,  
14       which would give us two three-week blocks to complete these  
15       witnesses. But to the extent possible, if we have that extra  
16       flexibility, which is what I was mentioning before, to be able to go  
17       into November in case there is some scheduling issues, that would  
18       obviously be helpful. But my goal is to finish by the end of  
19       October.

20          JUDGE METTRAUX: [Microphone not activated].

21          MR. MISETIC: We don't have a calendar of October and November  
22       that you have. That hasn't been disclosed to us. But if we were  
23       doing the three weeks, two-week break, three weeks, that would put us  
24       at 31 October, I believe, to finish the second block.

25          PRESIDING JUDGE SMITH: Between now and the end of November

1     there are 30 days of trial at five hours a piece, that's 150 hours.  
2     It seems to me reasonable to get finished a lot sooner than November.

3           MR. MISETIC: As I said, our intention is to finish by the end  
4     of the second three-week block, which by our estimate was going to be  
5     October 31st. But, again, you're correct --

6           PRESIDING JUDGE SMITH: Well, we may be setting a date, so ...

7           MR. MISETIC: I'm telling you the best -- our best estimate is  
8     that that's what -- how much we need.

9           PRESIDING JUDGE SMITH: Thank you for that estimate.

10          Anything further from the Krasniqi Defence?

11          MR. ELLIS: Only to say, Your Honours, that, of course, we may  
12     have questions for some of the Thaci witnesses as well.

13          PRESIDING JUDGE SMITH: I assumed you would.

14          MR. ELLIS: And I imagine other Defence teams as well, so ...

15          PRESIDING JUDGE SMITH: And even the SPO might have a few  
16     questions.

17          MR. ELLIS: I imagine so, but I think Judge Mettraux had allowed  
18     for those in his estimates.

19          JUDGE GAYNOR: Could I ask --

20          PRESIDING JUDGE SMITH: SPO?

21          JUDGE GAYNOR: I'm sorry.

22          PRESIDING JUDGE SMITH: Yes.

23          MR. PACE: Yes, Your Honour. Since counsel for Mr. Krasniqi  
24     raised it, could we obtain some clarification as to when the  
25     estimates by the other Defence teams and Victims' Counsel will be

1 provided for the cross-examination of Defence witnesses? So on our  
2 side, the SPO will be providing those within seven days of today  
3 essentially, because that's when we were provided with the  
4 information under paragraph 74 of the Order on the Conduct of  
5 Proceedings. Our understanding would be that the same -- the  
6 paragraph 76 procedure would also apply to the other Defence teams  
7 and Victims, and I think that would put us to next week, when -- this  
8 additional information in terms of our cross-examination estimates  
9 for the witnesses we know about and also those of other Defence teams  
10 will help everyone, I think, in terms of realising what's more  
11 realistic in terms of courtroom dates needed.

12 PRESIDING JUDGE SMITH: Thank you.

13 MR. ELLIS: Yes. I was assuming that we were bound by the  
14 seven-day period. That was our intention.

15 PRESIDING JUDGE SMITH: Okay.

16 Anything further from anybody?

17 JUDGE GAYNOR: I just have one brief question for Mr. Dixon and  
18 Mr. Roberts.

19 I know you're not putting on a Defence case, but can you say at  
20 this stage whether you anticipate carrying out extensive  
21 cross-examination of the witnesses appearing for the other two  
22 Defence teams?

23 MR. DIXON: Thank you, Your Honour. As far as we can estimate,  
24 at this stage, we wouldn't be conducting extensive cross-examination  
25 but may well need to cross-examine in certain areas, depending, of

1 course, on the final statements, the final evidence presented, but we  
2 don't anticipate that it would be lengthy. Without binding ourselves  
3 100 per cent now, I think it will be quite focused, but it is  
4 anticipated that there will be certain questions asked of certain  
5 witnesses.

6 MR. ROBERTS: Yes, I think we're in a similar position. We do  
7 have a motion pending before Your Honours in relation to the scope,  
8 perhaps, of cross-examination by the Prosecution of Defence witnesses  
9 which may affect our estimates. So, obviously, a decision on that  
10 request would assist to give accurate indications. But at the  
11 moment, we're in a similar situation. We're not intending, as we  
12 understand the summaries of the evidence to provide to -- to require  
13 extensive cross-examination, no.

14 PRESIDING JUDGE SMITH: Mr. Laws.

15 MR. LAWS: Your Honour, yes, I would like to answer Mr. Thaci's  
16 question, but to do so, may we go into private session, please.

17 PRESIDING JUDGE SMITH: Into private session, please,  
18 Mr. Court Officer.

19 [Private session]

20 [Private session text removed]

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1 [Private session text removed]

12 [Open session]

13 THE COURT OFFICER: Your Honours, we're in public session.  
14 Thank you.

15 PRESIDING JUDGE SMITH: Thank you.

16 The Panel wishes to confirm with the Defence their final  
17 positions on motions for admission of material through the bar table  
18 and judicial notice of adjudicated facts, which takes up a good deal  
19 of the Court record.

20 Turning first to any bar table motions, we would like to clarify  
21 whether the Defence knows how many bar table motions they intend to  
22 file; how many documents it will be seeking admission through the bar  
23 table; and whether such motions will be centred around certain  
24 topics, in other words, grouped around certain topics, and, if yes,  
25 what are those topics; and when they foresee filing such motions.

1           In addition, while the Thaci Defence submitted that it would  
2   file its bar table motions at the end of its case, the Panel can only  
3   emphasize that the sooner the Defence starts filing any bar table  
4   motions, the sooner those issues will be resolved. The Panel will  
5   also make it clear that it might impose a schedule for the filing of  
6   such motions to avoid the unfortunate bottleneck that affected the  
7   end of the Prosecution case in respect of such filings.

8           If we can start with the Thaci Defence, please.

9           MR. MISETIC: Yes, Mr. President. I've discussed the timing of  
10   bar table motions earlier. We are not filing a motion for  
11   adjudicated facts, so that is not an issue with us. We roughly know  
12   we're going to file, I would expect, four or five bar table motions.  
13   We are going to try to group them around topics. I can't tell you  
14   today what specific topics they'll be. I do know one will be, you  
15   will be able to see on our list of exhibits, grouped around  
16   Mr. Thaci's whereabouts. You'll be able to track through that bar  
17   table motion basically that he was out of the country in the  
18   indictment period from mid-November until June 18th, except for a  
19   period in between of less than 60 days, and that's what the bar table  
20   motion will be about, and we expect to file that, again, before  
21   15 September.

22           In terms of the number, we're roughly -- you've seen, we have  
23   about 850 documents on our exhibit list. It's going to be roughly a  
24   50/50 split of documents we try to tender through witnesses, and then  
25   the other 50 per cent, so roughly 425 documents, through the bar

1 table. But these are estimates, obviously, at this point.

2 And then the timing is as I mentioned earlier, which is related  
3 to another topic. We talked about the end of October. That did not  
4 account for the additional time we would ask for for a residual bar  
5 table motion after the end of the presentation of our witnesses.

6 PRESIDING JUDGE SMITH: Understood. Thank you.

7 Krasniqi Defence.

8 MR. ELLIS: Yes, thank you, Your Honour. Adjudicated facts. We  
9 haven't made a final decision yet, but there are only one or two  
10 things left that we are checking, so we would be able to do that in  
11 advance of the 15 September opening of the Defence case.

12 In terms of documents, there are just under a thousand documents  
13 on our revised exhibit list. I think it's 995 to be precise. But  
14 that, of course, includes quite a large number of translations, so  
15 the number of unique documents is rather less than that. Of those,  
16 though, I think no more than 20 are likely to be tendered through our  
17 154 witnesses, so the great majority will be bar table motions unless  
18 to the extent that we're able to tender them through other witnesses  
19 called by the Thaci Defence.

20 We are intending to do it on a rolling basis so as not to save  
21 everything up until the end. That would be done on a thematic basis  
22 probably following the division of items on the exhibit list that  
23 we've provided, but I can't give further details than that today. We  
24 haven't made final decisions on that yet.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. HALLING: We'll respond to these applications when they come  
2 in. Just as during the SPO case, particularly large bar table  
3 motions may require requests for extensions of additional time and  
4 word limits, but we'll cross that bridge when we get to it.

5 PRESIDING JUDGE SMITH: Anything from the Selimi Defence?

6 MR. ROBERTS: Not at the moment, Your Honour, no.

7 PRESIDING JUDGE SMITH: Anything from the Veseli Defence? Thank  
8 you.

9 Finally, and we mentioned this briefly earlier, as to the  
10 admissibility of proposed exhibit lists of both the Thaci and  
11 Krasniqi Defence, the Panel would like to know whether there have  
12 been any *inter partes* discussions with the SPO on this issue as  
13 suggested by the last Status Conference. And if not, why not.

14 MR. MISETIC: We did reach out to the SPO with respect to the  
15 exhibit list that was filed in July. They responded that they could  
16 not respond until we filed our revised exhibit list, which was filed  
17 yesterday. It was filed Friday. Thank you.

18 PRESIDING JUDGE SMITH: Krasniqi.

19 MR. ELLIS: We have not yet had those discussions, but we can do  
20 so now that the revised exhibit list has been filed.

21 PRESIDING JUDGE SMITH: So I think that answers that you're --  
22 you've got to see it before you can have the discussion.

23 MR. HALLING: Correct.

24 PRESIDING JUDGE SMITH: So you have it in your possession now.  
25 And I very much hope those discussions can be fruitful. It would

1 have a great deal of impact on the amount of time we spend in this  
2 case on exhibits, which can be, as you know, quite lengthy.

3 MR. MISETIC: Yes. And as I mentioned earlier, the more  
4 information we get from the Prosecution as to which exhibits are not  
5 disputed for admission, the more time we're going to save on direct  
6 examination of some of our witnesses.

7 PRESIDING JUDGE SMITH: Understood.

8 The Panel recalls that at the Status Conference on 22 July, it  
9 ordered that the Defence should provide translations of documents on  
10 its exhibit list that it intends with a witness 5 days prior to  
11 calling of the witness. Nonetheless, the Panel notes that, in filing  
12 F03402, the Thaci Defence notified that it had added English  
13 translations of documents disclosed by the Defence where the original  
14 document is in a language other than English.

15 The Panel would therefore like to confirm with the Thaci Defence  
16 that it has provided English translations of all documents that it  
17 intends to use as part of its case that were not already in English.

18 MR. MISETIC: I'm sorry, I needed to consult here.

19 PRESIDING JUDGE SMITH: It's okay.

20 MR. MISETIC: So for the documents that are our own documents on  
21 our exhibit list, there are translations for all of them, I believe.  
22 I'm being told that for documents that are SPO documents on our  
23 exhibit list, we think there are translations of them but we'll have  
24 to double-check that.

25 PRESIDING JUDGE SMITH: Can that be completed before the

1 beginning of your evidence?

2 MR. MISETIC: Absolutely.

3 PRESIDING JUDGE SMITH: All right.

4 The Panel notes that, in filing F03403, the Krasniqi Defence  
5 notified that it has identified ten listed items which do not  
6 currently have an English translation and that it will disclose  
7 translations as soon as possible. The Panel would therefore like to  
8 confirm with the Krasniqi Defence whether these are the only  
9 documents to which the English translations are missing, and whether  
10 it knows when it can provide English translations of these documents.

11 MR. ELLIS: Yes, I apologise, it's a slightly different number  
12 from that which I gave at the previous Status Conference. We picked  
13 these up when we went through the exhibit list following  
14 Your Honours' order to reduce the numbers of documents on it.

15 We believe that ten is the total documents requiring  
16 translation. We would intend to provide those in advance of the  
17 15 September opening of the Defence case.

18 PRESIDING JUDGE SMITH: Thank you.

19 Anything from the SPO on this issue?

20 MR. HALLING: Just to clarify Mr. Misetic's submission. In  
21 terms of what's going to be done before the Defence case begins, is  
22 it the check of the translations or will the translations themselves  
23 be completed?

24 MR. MISETIC: The check will be completed. And then, obviously,  
25 after we check, it depends on how many translations are needed. And,

1 again, these -- we're talking about SPO documents. So if it's not a  
2 lot of documents that need translation, yes, but if it turns out to  
3 be a significant number, then I can't promise --

4 PRESIDING JUDGE SMITH: You have no idea how many SPO documents  
5 you have in your list at this point? I'm not saying you should be  
6 able to remember offhand. I just wondered if you knew.

7 MR. MISETIC: Yeah, I don't know how many untranslated SPO  
8 documents are on our list.

9 PRESIDING JUDGE SMITH: Understood. I understood that. I was  
10 just trying to find out --

11 MR. MISETIC: So I don't expect it to be a lot. Yeah.

12 PRESIDING JUDGE SMITH: -- the possible --

13 MR. MISETIC: There are a lot of SPO documents on our list or  
14 documents disclosed to us by the SPO on our list, but I don't expect  
15 there to be a lot.

16 PRESIDING JUDGE SMITH: It would probably be best to do it in  
17 advance of 15 September if possible. So if you get an answer, be  
18 sure and transmit it to the SPO right away so they know, and to the  
19 Panel.

20 MR. MISETIC: Yes, will do.

21 PRESIDING JUDGE SMITH: So that's sort of all of the formal  
22 provisions of Rule 119, and we've gone through those, and we have  
23 your answers, and some of them may require an order which we will do  
24 probably in a consolidated order for all the items that came up or in  
25 separate items if necessary. But I want to not leave without giving

1 everybody an opportunity to bring up any issue that they have facing  
2 them that we have not discussed thus far.

3 So we will start with the SPO.

4 MR. HALLING: We have nothing further to discuss from our side.

5 PRESIDING JUDGE SMITH: Thaci Defence.

6 MR. MISETIC: Nothing from us, Your Honour.

7 PRESIDING JUDGE SMITH: Veseli Defence.

8 MR. DIXON: Thank you, Your Honours. Only one matter. The  
9 calendar was mentioned for the months following the first session,  
10 and I just wanted to find out when that would be released, because  
11 the sooner, the better, in terms of longer-term planning. We'd much  
12 appreciate it.

13 PRESIDING JUDGE SMITH: There is one on file with KOSMOS right  
14 now. It was when I went there.

15 MR. MISETIC: We can't access that, so all we have is just the  
16 three weeks --

17 PRESIDING JUDGE SMITH: Oh, I'm sorry. I thought you could.

18 MR. MISETIC: Yeah, we only have the three weeks starting  
19 September 15.

20 PRESIDING JUDGE SMITH: [Microphone not activated] We'll get it  
21 to you today.

22 MR. DIXON: And that's the calendar that goes beyond September.

23 PRESIDING JUDGE SMITH: Yes --

24 MR. DIXON: That would be much appreciated.

25 PRESIDING JUDGE SMITH: -- it goes up until the Christmas break,

1 in effect, or the winter break, and covers beginning -- we moved it  
2 to the beginning point of 15 September --

3 MR. DIXON: Yes.

4 PRESIDING JUDGE SMITH: -- as requested. So, as I said, there  
5 are 35 separate hearing days between now and then. And we're doing  
6 it exactly the same way that we did during the SPO's case: Four days  
7 of hearing, a week off, four more days of hearing, three weeks off,  
8 alternating in the same manner.

9 MR. DIXON: Thank you, Your Honours. We'd appreciate being able  
10 to access that right way.

11 PRESIDING JUDGE SMITH: Yeah, we'll get that to you today.

12 MR. DIXON: Thank you.

13 PRESIDING JUDGE SMITH: I'm sorry, I didn't -- I understood that  
14 you had access to that.

15 MR. DIXON: Not yet but I understand it's coming now. Thank  
16 you.

17 PRESIDING JUDGE SMITH: Anything else from the Selimi Defence?

18 MR. ROBERTS: Nothing further from us, Your Honour. Thank you.

19 PRESIDING JUDGE SMITH: And Mr. Krasniqi's Defence?

20 MR. ELLIS: Nothing further. Thank you.

21 PRESIDING JUDGE SMITH: All right. Thank you, all. Thank you,  
22 all. This was enlightening and hopefully helpful. Hopefully helpful  
23 to you as well. We will do our best to answer any questions that  
24 arose through an order or perhaps even just an e-mail if it just is  
25 an answer of something like you brought up, Mr. Dixon. We'll get you

1 the copies of the schedule.

2 So we will look forward to 15 September. And please do your  
3 best to file all pending motions that are in your head beforehand so  
4 we can deal with them without holding up any portions of the trial  
5 dates that we've allocated.

6 So if there's nothing further, we're adjourned.

7 --- Whereupon the hearing adjourned at 11.15 a.m.

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