

1 Wednesday, 19 November 2025

2 [Status Conference]

3 [Open session]

4 [The accused appeared via videolink]

5 [The Accused Krasniqi entered the courtroom]

6 --- Upon commencing at 2.00 p.m.

7 PRESIDING JUDGE SMITH: Mr. Court Officer, please call the case.

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

12 PRESIDING JUDGE SMITH: For the record, I note that Mr. Krasniqi  
13 is present in court with us today. Mr. Thaci, Mr. Veseli, and  
14 Mr. Selimi waive their right to be present in the courtroom today and  
15 instead are appearing via video-conference.

16 Before we start with the agenda of today's Status Conference,  
17 there are some preliminary matters that the Panel would like to  
18 address.

19 First, the Panel recalls that at yesterday's hearing the SPO  
20 tendered for admission two documents, SPOE00405847-00405880 and  
21 DHT10293 to DHT10336, which the Panel marked for identification as  
22 MFI P04515 and P04516, respectively. The Thaci Defence objected to  
23 their admission, arguing that the documents constitute written  
24 statements given by 1DW-007 as a witness, under oath, before the  
25 United States Armed Services Committee and, as such, they are

1 testimonial in nature and were given in relation to legal  
2 proceedings. The SPO, in turn, replied that the concerned MFIs are  
3 not subject to Rules 153 to 155 as they are not statements taken as a  
4 part of criminal or civil proceedings.

5 This is at page 14 to 15, and 56 to 58 of yesterday's live  
6 transcript.

7 As previously reiterated by this Panel, Rules 153 and 155 are  
8 *leges speciales* in respect of evidence that comes within the scope of  
9 the notion of a written statement given by a witness; see, for  
10 example, F01852, paragraph 10. Where proposed evidence qualifies as  
11 a statement, it must therefore be offered pursuant to one of those  
12 rules so as to ensure that a party cannot circumvent the particular  
13 safeguards provided for the admission of witness evidence. The Panel  
14 observes that Rules 153 to 155 do not limit their scope to written  
15 statements given by witnesses in the context of a criminal  
16 investigation or criminal proceedings. For the purpose of Rules 153  
17 to 155, it suffices that the concerned statement is testimonial in  
18 nature and was given in relation to legal proceedings. In this  
19 regard, the Panel directs the parties to its oral order of  
20 23 September 2025.

21 In this instance, the proposed items do not constitute written  
22 statements of a witness in the context of legal proceedings. Both  
23 MFIs are a transcript of hearings of the United States Senate  
24 Armed Services Committee. The Panel considers that hearings before  
25 the committees of the United States Senate, of the type described in

1 the relevant MFIs, are not legal proceedings for the purpose of  
2 Rule 153 to 155, as they are not meant to resolve a legal dispute  
3 through a judicial process. The fact that statements may or may not  
4 have been given under oath is not material. There is also no  
5 indication that these statements were taken in anticipation of legal  
6 proceedings, whether civil or criminal.

7 The Panel notes that it has previously admitted into evidence  
8 under Rule 138 similar records from hearings of the Assembly of the  
9 Republic of Kosovo and the United States Senate, as tendered by both  
10 the SPO and the Thaci Defence. These are P00942 and 1D00290.

11 For the reasons described above, the Panel finds that the MFIs  
12 P04515 and P04516 are not distinct from those prior admitted records.  
13 Such an approach is also entirely consistent with that of other  
14 jurisdictions with a comparable evidential regime. For instance, in  
15 the Karadzic case before the ICTY, various statements made in  
16 parliament were admitted as exhibits in that case.

17 Accordingly, the Panel finds that MFIs P04515 and P04516 do not  
18 fall within the definition of statements within the meaning of  
19 Rules 153 through 155. The Panel also finds that MFIs P04515 and  
20 P04516 meet the requirements for admission under Rule 138. They are  
21 therefore admitted.

22 This concludes the Panel's first oral order.

23 Second, on 8 September 2025, the SPO requested that the Panel  
24 consolidate Prosecution Exhibits P00074, P00507, P01634, and P02619,  
25 which are all portions of U000-4844-U000-4859, into one single

1 exhibit. The SPO outlined that it had engaged in *inter partes*  
2 correspondence with the Defence and that there is no objection to  
3 this proposal as long as all pages of U000-4844 to U000-4859 are  
4 included in the consolidated exhibit, including those not previously  
5 admitted.

6 Can I confirm that there are no objections to all pages of  
7 U000-4844 to U000-4859 being admitted into evidence?

8 MR. DIXON: Your Honours, no. It was our proposal to include  
9 the full range, so we are hoping that that will be agreed and so  
10 ordered.

11 PRESIDING JUDGE SMITH: Thank you, Mr. Dixon.

12 Victims' Counsel, any objection?

13 MR. LAWS: No objection, Your Honour.

14 PRESIDING JUDGE SMITH: Having heard the parties and  
15 participants, the Panel admits into evidence the pages of U000-4844  
16 to U000-4859 not previously admitted into evidence, and any  
17 corresponding translations, and directs the Registry to merge P00074,  
18 P00507, P01634, P02619, and the additional pages just admitted into  
19 one consolidated exhibit, namely, P00074.

20 This concludes the Panel's second oral order.

21 We will now proceed with the agenda of the Status Conference.  
22 The Panel scheduled this Status Conference in order to facilitate the  
23 close of the evidentiary proceedings.

24 The Panel would like to discuss the following topics:

25 Reparation proceedings, the close of the Defence case and evidentiary

1 proceedings, agreed facts, transcript reclassification, rebuttal and  
2 rejoinder evidence, and finally, final trial briefs and closing  
3 arguments.

4 Regarding the first point on the agenda -- and by the way,  
5 please consider this a discussion. I don't intend to do all the  
6 talking. We want to hear everyone's thoughts on these subjects. We  
7 will make a decision, hopefully, yet this week after today's hearing.

8 So, first, concerning the first point on the agenda, the Panel  
9 notes that the parties and participants filed their submissions on  
10 the modalities for reparations proceedings on Monday, 17 November  
11 2025.

12 The Panel notes that the SPO indicated in their response, that  
13 is filing F03582, that it is available to make submissions on: Number  
14 one, whether the Panel shall refer victims to civil litigation in  
15 Kosovo, pursuant to Article 22(9) and Rule 167, or issue a reparation  
16 order pursuant to Articles 22(8) and 44(6); and, two, the time  
17 required by the SPO to respond to a request for reparations filed by  
18 victims.

19 Counsel, according to the schedule deemed appropriate by the  
20 Panel, Mr. Prosecutor, are you ready to make them now?

21 MR. PACE: Yes, Your Honour, and we can be brief. We support  
22 Victims' Counsel's submissions, and those are F03583, in relation to  
23 not referring victims to civil litigation in Kosovo. And the reasons  
24 are the ones enunciated in Victims' Counsel's submissions, primarily  
25 the issue of protective measures and also the issue of the location

1 of the victims in this case.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. PACE: Sorry, I think I forgot your second question.

4 PRESIDING JUDGE SMITH: You forgot the second part.

5 MR. PACE: Yes. As to when the SPO would respond to requests  
6 for reparations filed by Victims' Counsel, we would be able to do so  
7 whenever Your Judges decide. We would request the same deadline  
8 afforded to the Defence in that regard.

9 PRESIDING JUDGE SMITH: Thank you.

10 The Panel would now like to invite submissions from the Defence  
11 as to whether the Panel should refer victims to civil litigation in  
12 Kosovo, pursuant to those articles already named, or issue a  
13 reparation order pursuant to Article 22(8) and 44(6).

14 Are you in a position to make those submissions now? If not --

15 MR. DIXON: Thank you, Your Honours. On behalf of the Defence,  
16 as set out in our submissions, we submit it's premature to make those  
17 particular submissions now. We agree with the Victims' Counsel that  
18 reparations should be done after the judgment. And it couldn't be  
19 set out better than has been done so by Mr. Laws in his filing that  
20 the possible permutations are endless. We don't know what the  
21 findings are, which victims may be included or not. It might be that  
22 for some, if they are included, that it's appropriate to go to  
23 Kosovo; for others, not. And it's possible to have both a  
24 reparations order and referral. So our submission is we have to wait  
25 until then to do it. That's the appropriate time to do so.

1           Certainly, a wholesale blanket rejection of the national  
2           jurisdiction is at this stage premature, we say, and unfair,  
3           particularly when the Court is there to assist the national  
4           jurisdiction. But we're getting ahead of ourselves, we say. We ask  
5           that that be done at the appropriate time.

6           We would ask for four weeks to respond to any applications made  
7           and submissions made on reparations by the victims, we would say,  
8           after the judgment. Mr. Laws has proposed four weeks, and then we  
9           would want a further four weeks to respond after the judgment, when  
10          it's known what the findings actually are.

11          PRESIDING JUDGE SMITH: Anybody else?

12          MR. ELLIS: Your Honour, can I simply add that we understand  
13          from filing F3583 that one of the key issues is going to be the  
14          availability of protective measures in national proceedings. I'm  
15          just not in a position to be able to assist on the detail of that  
16          today, and we would wish, if the Panel is minded to make an order,  
17          that we have some time to consider that point. Noting that in the  
18          Shala case, filing, I think, 310, that was addressed on the basis of  
19          the expert evidence available in that case, the Defence choosing not  
20          to make submissions on it, and that filing then being followed in the  
21          subsequent Shala case. So it's that that we would wish to look into  
22          specifically before trying to assist further.

23          PRESIDING JUDGE SMITH: [Microphone not activated].

24          MR. LAWS: May I reply to Mr. Dixon, please, briefly. Two  
25          points.

1 First of all, we submit it's never going to be appropriate to  
2 refer any of the victims in this case to Kosovo, and so waiting to  
3 see the outcome on whichever one of the many permutations that could  
4 possibly arise simply isn't a relevant consideration. We've set out  
5 all the reasons why it's not going to be appropriate, and those are  
6 going to apply at any stage of the case and in respect of any factual  
7 findings.

8 The second thing that I would like to say is that the decision  
9 needs to be taken now. The victims and we need to know what the  
10 future holds, and the Defence have had adequate notice of this. The  
11 submission that they should be allowed to wait until the judgment is,  
12 we respectfully submit, misconceived. That should happen this week  
13 with the other matters that are going to be decided in relation to  
14 today's hearing.

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. DIXON: If I can reply briefly. I mean, that's an entirely  
17 abstract decision that will be made, whether or not there's going to  
18 be a reparations order or referral or both. It can only be done  
19 based on the victims we are talking about when particular findings  
20 are made, if they are made, and then, taking into account what are  
21 the possibilities within the national jurisdiction, to make full  
22 submissions then.

23 With the greatest respect, the victims don't need to know now.  
24 They have to wait for the judgment anyway. And then the various  
25 courses can be looked at at the appropriate time with full



1 submissions.

2 PRESIDING JUDGE SMITH: Does the Panel wish to have any  
3 questions about this? Yes.

4 JUDGE GAYNOR: Thank you very much, Judge Smith.

5 Mr. Laws, I have three points I'd like to raise with you.

6 In your filing, paragraph 23, you refer to the three expert  
7 reports from Dr. Lerz that you referred to in paragraph 7 as well.

8 MR. LAWS: Yes.

9 JUDGE GAYNOR: Those are the three expert reports you already  
10 submitted and their admission was denied without prejudice.

11 MR. LAWS: That's right.

12 JUDGE GAYNOR: So you don't -- my question is, why do you need  
13 two weeks to submit them? We already know what they are.

14 MR. LAWS: The straightforward answer to that is that, first of  
15 all, in respect of the Lerz report in relation to this case, it's  
16 likely to be in a somewhat different form to the one that was  
17 submitted. We want to change it, and we want an opportunity just to  
18 ensure that it is properly aligned with the factual findings in the  
19 judgment.

20 JUDGE GAYNOR: My second point concerns your proposal to engage  
21 an expert to report about possible forms of collective reparations.

22 MR. LAWS: Yes.

23 JUDGE GAYNOR: And you indicate in your filing, paragraph 34(3),  
24 that work on a possible proposal for collective reparations based on  
25 the expert report, you've had preliminary discussions with relevant

1 experts.

2 MR. LAWS: Yes.

3 JUDGE GAYNOR: Now, I was wondering if you can help me on one  
4 thing and that is your victims, obviously, will be able to express to  
5 you whatever preferences they have --

6 MR. LAWS: Yes.

7 JUDGE GAYNOR: -- on the issue of individual versus collective  
8 reparations, on what kind of collective reparations, if there is any  
9 conviction in this case. You and your team, in turn, have all the  
10 expertise you need to make submissions to the Court reflecting the  
11 preferences of the victims.

12 So my question is this: What added value does an expert witness  
13 bring? How can the expert witness add to the Court's understanding  
14 of what you will be presenting on behalf of your client?

15 MR. LAWS: Well, it's not so much adding to the Court's  
16 understanding but giving an opinion about what might be a practical  
17 and useful mode of collective reparations. And the experts that we  
18 have spoken to are -- some of them are people who have in the past  
19 made proposals which have then been adopted in relation to collective  
20 reparations. And it's not collective reparations or individual  
21 reparations. It's something in addition to individual reparations.

22 JUDGE GAYNOR: I'm just wondering if it's necessary to wait for  
23 an expert report. If you could pick up whatever great ideas they  
24 might have, they could inform your submissions directly to the  
25 Chamber, and we wouldn't have to have a delay in time in order for

1 those reports to be filed.

2 MR. LAWS: Yes, and I see Your Honour's point, with respect.  
3 But generally speaking, when a proposal of that kind is made, it  
4 probably has more authority coming from an expert than from counsel.  
5 So perhaps we can wait and see what emerges from it.

6 JUDGE GAYNOR: Yes.

7 The final point is the expert evidence, you say in paragraph 26,  
8 is limited to the Lerz reports plus this report that we are talking  
9 about --

10 MR. LAWS: Yes.

11 JUDGE GAYNOR: -- collective --

12 MR. LAWS: Yes.

13 JUDGE GAYNOR: I want to clarify whether you intend to submit  
14 non-expert evidence of any kind?

15 MR. LAWS: We deal with that possibility, Your Honour -- if you  
16 give me just a moment. We deal with the possibility of submitting  
17 evidence from the victims themselves depending on the outcome of the  
18 request for partial consideration that we've made of our Rule 153  
19 application. And it's -- we need to see the outcome of that, and  
20 then we'll look again at whether or not there is scope to submit  
21 further non-expert evidence in the shape of the victims themselves.  
22 And that's at our paragraph 25 in our filing under the heading "Other  
23 Material."

24 JUDGE GAYNOR: I understand. Finally, there's been reference in  
25 submissions both by the Defence and by you as to the difficulty of

1 making submissions when you don't know what, if any, convictions  
2 might be entered --

3 MR. LAWS: Yes.

4 JUDGE GAYNOR: -- in respect of which victims. Would you agree  
5 there are, broadly speaking, submissions that can be made working on  
6 the theoretical assumption that some convictions might be entered,  
7 even if you're not able to make totally tailor-made submissions?  
8 Would you agree that there are submissions that could be made prior  
9 to knowing if any conviction is going to be entered?

10 MR. LAWS: Well, we would need to make submissions covering  
11 every factual finding that could arise in order to make meaningful  
12 submissions. Yes, such submissions could be made in theory, but in  
13 practice, it's -- well, it would be a very, very sizable task to look  
14 at the liability of each accused, with every permutation, across  
15 every detention site or family affected by murder, and to try to say  
16 for each permutation what the outcome should be. I mean, we regard  
17 that as being something that we won't be able to do in a manner  
18 that's useful to the Panel.

19 JUDGE GAYNOR: Thank you very much.

20 PRESIDING JUDGE SMITH: Mr. Laws, one other thing. You've  
21 indicated that you do not believe it would be possible to make the  
22 referral to civil authorities in Kosovo.

23 MR. LAWS: Yes.

24 PRESIDING JUDGE SMITH: Could you tell us why that is? And we  
25 can be in private session if you need -- if there's something

1 sensitive about it. But I just would like to have your reasoning  
2 stated on the record.

3 MR. LAWS: Yes. Well, thank you very much for the opportunity,  
4 Your Honour. We have provided, as the Court knows, detailed written  
5 submissions in respect of this topic. And our submissions were  
6 almost entirely dependent on the findings of Trial Panel I, who  
7 considered exactly this question in both the Mustafa and the Shala  
8 cases. And they instructed three experts with relevant expertise in  
9 relation to civil litigation in Kosovo in order to assess whether or  
10 not such a referral would be practical. And the result was a very  
11 clear one. And it's dealt with at our paragraph 13 of our  
12 submissions, but citing more extensively than I could repeat here  
13 Trial Panel I's analysis of the position, first of all, in relation  
14 to the availability of anonymity for victims in civil proceedings in  
15 Kosovo. And the headline in relation to that topic is that civil  
16 proceedings in Kosovo don't provide for anonymity, and that,  
17 therefore, the victims who were concerned in the litigation would  
18 need to disclose their identity, with all of the difficulties that  
19 that entails.

20 And so their conclusion, and I will read just this part, as I'm  
21 given the floor, at our paragraph 14:

22 "In light of the foregoing, the Panel considers that it would  
23 not be appropriate to refer victims to civil litigation in Kosovo  
24 courts pursuant to Article 22(9) of the Law and Rule 167 of the  
25 Rules."

1           That was their conclusion based on anonymity.

2           The issue goes significantly further than that because the  
3           anonymity issue alone was enough for them to deal with this issue in  
4           both Mustafa and Shala, but the experts highlighted significant  
5           further difficulties in the way of victims seeking justice in the  
6           civil courts of Kosovo, and those included the likely -- and this is  
7           our paragraph 18:

8           The likely existence of a certain level of corruption and  
9           interference within the Kosovo legal system; the length of civil  
10          proceedings; potential problems concerning the execution of awards  
11          issued by Kosovo courts against assets located in the territory of a  
12          country which lacks judicial cooperation agreements or diplomatic  
13          ties with Kosovo; the fact that existing funds for the provision of  
14          legal aid may not have sufficient resources to ensure that legal aid  
15          is continuously provided; and, finally, uncertainty with regard to  
16          the application of statutes of limitations, if any, to civil claims  
17          advanced by victims of war crimes.

18          That's what the experts told Trial Panel I, and we submit that,  
19          in addition to anonymity, which is enough, we say, to end the debate,  
20          those are also highly relevant features to bear in mind.

21          The principal difference in terms of this case and the Mustafa  
22          and Shala cases is the demographic of the victims. In particular, a  
23          large number of the victims in this case no longer live in Kosovo,  
24          and, as well as all the additional obstacles that we have just looked  
25          at that the experts identified for those victims, we submit that it's

1 really quite impossible to see how they could be expected to access  
2 justice in Kosovo at all.

3 But that is an additional argument, it's not the main argument  
4 that we put forward, but it relates to a sizable number of the  
5 victims concerned, and so we've said it before, Your Honour. Does  
6 that answer Your Honour's question?

7 PRESIDING JUDGE SMITH: Yes, it does. Thank you. It's very  
8 helpful.

9 MR. DIXON: Your Honour, if I may respond briefly. I mean, that  
10 highlights exactly the point the Defence is making, that we  
11 potentially need expert evidence to respond to that. I mean, the  
12 idea that the entire national jurisdiction just gets thrown down the  
13 drain is both extreme but premature as well.

14 PRESIDING JUDGE SMITH: Mr. Dixon, we've already had  
15 professional experts. You just heard about them.

16 MR. DIXON: Yes.

17 PRESIDING JUDGE SMITH: They were in a different case but it's  
18 the same issues.

19 MR. DIXON: There might well be a different perspective which is  
20 saying that the system can allow for [Overlapping speakers] ...

21 PRESIDING JUDGE SMITH: That may be worth an argument, but I  
22 don't know that it's very convincing.

23 MR. DIXON: Well, Your Honour, I don't know of a national  
24 jurisdiction that allows a totally anonymous civil claim ever to be  
25 brought. Perhaps Mr. Laws can enlighten us. There are ways of

1 dealing with sensitivities in every national jurisdiction, and they  
2 might well exist in Kosovo. I just think it's unfair at this point  
3 to say the entire system is a waste of time and corrupt without  
4 hearing a full balanced account of this --

5 PRESIDING JUDGE SMITH: Thank you.

6 MR. DIXON: -- and we might well need to [indiscernible]  
7 evidence on that. That's all I'm saying.

8 PRESIDING JUDGE SMITH: I think you've made your same point  
9 three times, so that's -- thank you very much.

10 MR. LAWS: May I just reply to it.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. LAWS: But we're not talking about a comparison between  
13 Kosovo and other national jurisdictions that may equally have or not  
14 have scope for anonymity. We're talking about a comparison between  
15 Kosovo and this Court, which does have the power to safeguard the  
16 anonymity of the victim. So the comparison is entirely misplaced.

17 And I emphasise that what I have read is not the opinion of  
18 Trial Panel I or the Judges here, it's not my opinion, it's the  
19 opinion of independent experts who were instructed to look at this  
20 issue, not one, not two, but three of them, and that was the  
21 conclusion that they reached.

22 PRESIDING JUDGE SMITH: Thank you.

23 Are there any other outstanding or further matters the parties  
24 and participants would like to raise in relation to the reparation  
25 proceedings? Nothing seen. Thank you very much.



1           Next, the Panel would like to explore with the Thaci Defence and  
2           the Krasniqi Defence further steps that need to be taken in relation  
3           to the closing of their Defence cases.

4           Witness 1DW-007 finished his testimony yesterday, that is,  
5           18 November 2025, as the last scheduled witness of the Thaci Defence.  
6           In light of this, the Panel wishes to confirm with the Thaci Defence  
7           and the Krasniqi Defence that they are in a position to close their  
8           respective cases soon.

9           To this end, can the relevant Defence teams confirm on the  
10          record that they have no further witnesses to call, and indicate  
11          whether they have any further motions to file for the admission of  
12          evidence. Also, if there are other further motions to be filed, it  
13          would be helpful for the Defence to indicate an expected timeline for  
14          the filing of such motions.

15          Mr. Misetic, you may go first.

16          MR. MISETIC: Yes, Mr. President. At the moment, we do not have  
17          any additional witnesses. However, we do have a pending Rule 153  
18          motion. Depending on the outcome of that motion, we may wish to call  
19          W04752 as an additional live witness, depending how you resolve the  
20          Rule 153 motion.

21          With respect to written evidence, we don't currently anticipate  
22          offering additional evidence. However, we would like an opportunity  
23          to go through what's left of the exhibits on our exhibit list. If  
24          anything, it would be less than a handful of exhibits. We would  
25          contact the other parties to seek agreement or their comments, and we

1 would file any motion along with a justification, pursuant to the  
2 Trial Panel's earlier order that we would need to demonstrate good  
3 cause for the additional motion, and we propose to do that a week  
4 from today, by next Wednesday.

5 PRESIDING JUDGE SMITH: That is sufficient. I can tell you we  
6 plan on planning on for the -- our date to close everything out in  
7 about two weeks.

8 MR. MISETIC: Yes, that --

9 PRESIDING JUDGE SMITH: So that will give you ample time to do  
10 that. We intend to have questions answered -- written filings  
11 answered by December 1st. So just to give some people a guideline.

12 MR. MISETIC: Yes. So in the answer to the question of when we  
13 would be prepared to close our case, like the Prosecution, if there's  
14 a bar table motion, we could still close and let you resolve the bar  
15 table motion. The only issue we have is with respect to W04752,  
16 which would prevent us from closing until that issue is resolved.

17 PRESIDING JUDGE SMITH: Understood that.

18 MR. MISETIC: Thank you.

19 PRESIDING JUDGE SMITH: Thank you.

20 Mr. Ellis.

21 MR. ELLIS: We don't anticipate filing anything further at this  
22 stage. If we might have a day or two just to review our exhibit list  
23 and confirm that.

24 PRESIDING JUDGE SMITH: You've heard my statement. Let's just  
25 say you have a week to make that decision --

1 MR. ELLIS: I'm grateful.

2 PRESIDING JUDGE SMITH: -- so that we can then act on it.

3 The SPO or Victims' Counsel have any submissions on this, this  
4 particular issue? No? Okay.

5 Taking into consideration the submissions just made, are the  
6 Thaci Defence and Krasniqi Defence in a position to indicate a  
7 particular date when notification for the closing of their case will  
8 be filed?

9 MR. MISETIC: At this point, I can just say shortly after  
10 resolution of the issue of W04752. So if it turns out we have to  
11 call him live, then it's up in the air as when we would close. If  
12 there's a ruling on the motion, we could close shortly thereafter.

13 PRESIDING JUDGE SMITH: All right. Okay. That's fine.

14 Mr. Ellis, anything?

15 MR. ELLIS: For us, I think it would be the deadline just  
16 mentioned, so a week from today.

17 PRESIDING JUDGE SMITH: A week from today.

18 MR. ELLIS: Earlier, if we can do it.

19 PRESIDING JUDGE SMITH: That's certainly sufficient.

20 MR. ELLIS: Okay.

21 PRESIDING JUDGE SMITH: Thank you.

22 Next, the Panel wishes to move to a slightly different matter,  
23 which is agreed facts.

24 The Panel observes that the last report concerning agreed facts  
25 was filed by the SPO on 13 September 2024; that is filing F02573.

1           The Panel seeks confirmation from the parties and the  
2 participants as to whether there are any outstanding or pending  
3 *inter partes* discussions in relation to agreed facts, and whether  
4 F02573 is, in fact, the last intended report on this matter.

5           We'll start with the SPO.

6           MR. PACE: Thank you, Your Honour. There's no outstanding  
7 conversations about this to our knowledge. And, yes, we confirm that  
8 F02573 is the last report on the matter.

9           PRESIDING JUDGE SMITH: [Microphone not activated].

10          MR. MISETIC: We agree with that submission.

11          PRESIDING JUDGE SMITH: [Microphone not activated].

12          MR. ROBERTS: Nothing to add, Your Honour.

13          PRESIDING JUDGE SMITH: Now in relation to transcript  
14 reclassifications.

15          The Panel notes that there are a number of transcript  
16 reclassification requests pending before the Panel. The Panel would  
17 like to hear from the parties and participants whether they have any  
18 objection to evidentiary proceedings closing while the transcript  
19 reclassification requests are pending.

20          Once again, we'll start with the SPO.

21          MR. PACE: We have no objection to that, Your Honour.

22          PRESIDING JUDGE SMITH: [Microphone not activated].

23          MR. MISETIC: We have no objection to that, although I have one  
24 point to add. I don't know if you want me to do it now.

25          PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. MISETIC: Your Honours, we have to alert the tribunal that,  
2 unfortunately, we did not -- pursuant to this Panel's earlier order  
3 about making public redacted versions of transcripts, for the  
4 September block of witnesses, we, unfortunately, did not undertake  
5 that process.

6 While we -- most of the hearings, as you know, were in public  
7 session anyway, and we don't anticipate any significant redactions to  
8 the transcript being required, we would like an extension of time of  
9 one week to go back and look at the September transcripts.

10 With respect to the November transcripts, we will go ahead and  
11 make sure that that's done.

12 PRESIDING JUDGE SMITH: [Microphone not activated] ... a week  
13 from tomorrow. Is that sufficient?

14 MR. MISETIC: That's fine. Yes, that's sufficient. Thank you,  
15 Mr. President.

16 PRESIDING JUDGE SMITH: Mr. Dixon, anything?

17 MR. DIXON: No objections, Your Honour. Thank you.

18 PRESIDING JUDGE SMITH: Mr. Roberts.

19 MR. ROBERTS: No objection.

20 PRESIDING JUDGE SMITH: Mr. Ellis.

21 MR. ELLIS: No objection, Your Honour.

22 PRESIDING JUDGE SMITH: Noting that the Panel will not call any  
23 evidence pursuant to Rule 132, and without prejudice to the procedure  
24 set out in Rule 133, the Panel inquires whether the SPO could provide  
25 an indication of whether it intends to seek leave to present evidence

1 in rebuttal, and, if so, whether the Defence could provide an  
2 indication as to whether it intends to seek leave to present evidence  
3 in rejoinder.

4 Mr. Pace.

5 MR. PACE: Thank you, Your Honour. Having considered the  
6 applicable standard under Rule 133 and this Court's jurisprudence on  
7 the matter, and in view of the fact that decisions on the admission  
8 of evidence, as you have acknowledged, in this case remain pending,  
9 there is also no final decision by the Thaci and Krasniqi Defence as  
10 to whether or not they'll be filing any further motions, we just  
11 learned that we will know that next week, at this stage, the SPO is  
12 considering whether it will file a motion under Rule 133, but it has  
13 not reached a final decision in that regard. And, of course, as can  
14 be expected, whether or not we do file such a motion is largely  
15 dependent on the outcome of currently pending Defence requests for  
16 the admission of evidence. But at this stage, we can already say  
17 that any Rule 133 request would be limited in scope, and we would not  
18 be requesting that any further witnesses be called to testify live or  
19 pursuant to Rule 154.

20 And in terms of timing, if that assists, we anticipate that we  
21 would be able to file a request or to notify you that we will not be  
22 filing a request within one week of any final decision on the  
23 admission of evidence tendered by the Defence.

24 PRESIDING JUDGE SMITH: Go ahead.

25 MR. MISETIC: All I can say at this point is we, obviously,

1 can't tell you whether we wish to file evidence in rejoinder until we  
2 see what the evidence in -- sorry, in -- yeah, in rejoinder until we  
3 see what evidence would be submitted in rebuttal.

4 PRESIDING JUDGE SMITH: We will expect you to have that decision  
5 in hand, maybe not issued but in hand, so that when we rule we  
6 immediately get a response.

7 In other words, it might be a week from now, and be ready to  
8 respond immediately.

9 MR. PACE: Yes, of course, it depends on what immediately means  
10 because, as I mentioned, our rebuttal request would depend on what  
11 you admit.

12 PRESIDING JUDGE SMITH: We know.

13 MR. PACE: We already have things in mind, if you admit this, we  
14 will do that.

15 PRESIDING JUDGE SMITH: We will have those by December 1st, and  
16 you will need to be in a position to respond by the 2nd.

17 MR. PACE: That's a very tight deadline, but we'll make --

18 PRESIDING JUDGE SMITH: That's a very tight deadline.

19 MR. PACE: -- any requests for extensions if we need it.

20 PRESIDING JUDGE SMITH: At this point, everything is going to be  
21 a tight deadline, so you might as well get used to it. All right?

22 We will now move to the issue of closing of the evidentiary  
23 proceedings.

24 The Panel anticipates issuing decisions on all currently pending  
25 evidentiary decisions on or about 1 December 2025. The Panel wishes

1 to inquire whether there are any other issues that the parties and  
2 participants anticipate, and I'm asking for direct answers not  
3 wishy-washy answers. I'd like to have a direct answer on these  
4 matters.

5 Are there any other issues that the parties and participants  
6 anticipate which would preclude the Panel from closing evidentiary  
7 proceedings on or about 4 December 2025? And in addition, do the  
8 parties and participants have any objection to the Panel closing the  
9 evidentiary proceedings in writing rather than in a hearing?

10 And we'll start again with the SPO.

11 MR. PACE: As to closing in writing, we have no objection. And  
12 in terms of issues that would preclude it from closing on 4 December,  
13 that, of course, depends on when the Panel issues a decision and  
14 whether or not the Defence is going to present any further motions,  
15 which we'll learn next week. But otherwise, we can't think of  
16 anything at the moment.

17 PRESIDING JUDGE SMITH: Thank you.

18 MR. MISETIC: So, I don't anticipate any motions by the  
19 Defence -- additional motions that would preclude you from closing.  
20 Meaning, if we submit something for a bar table, that shouldn't  
21 preclude you from closing.

22 The pending Rule 153 motion could because if -- depending on its  
23 outcome, we may have to call him, and I don't see how we could get  
24 that done before 4 December.

25 And then, third, depending on if they file a motion for rebuttal



1 evidence, then you can't close because we may also then wish to file  
2 rejoinder.

3 So other than that, I don't see any other issues.

4 JUDGE METTRAUX: And, number four, Mr. Misetic, about closing in  
5 writing. Any ...

6 MR. MISETIC: Yes, we have no objection to doing that in  
7 writing.

8 MR. DIXON: No objection to closing in writing either, and  
9 nothing foreseen. I simply flag up, Your Honours, not that we are  
10 going to take any steps, of course, it may be open to Your Honours  
11 still, but there was a Registry submission which was confidential, so  
12 I'm just going to refer to it in general, regarding a request for  
13 assistance to a third state where a report was given about  
14 non-cooperation. That's F03586. That report has been submitted. We  
15 are not taking any further action because it seems the matter is  
16 final. But simply to flag that up if there was anything arising from  
17 Your Honours' side.

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. DIXON: Thank you.

20 PRESIDING JUDGE SMITH: Mr. Roberts.

21 MR. ROBERTS: No issues, and no objection to notifying in  
22 writing. Thank you.

23 MR. ELLIS: We would support closing in writing, and we have no  
24 new issues beyond those discussed already.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. LAWS: Thank you. Your Honour, we have one filing that we  
2 will be making. It's not an evidentiary filing, so it doesn't  
3 necessarily affect the topic of the closing. But we thought it  
4 appropriate, just out of courtesy, to inform the Panel that we will  
5 be submitting an additional filing which relates to the scope of  
6 admission in relation to a number of victims in the case.

7 We can't submit that filing until there's a decision in relation  
8 to our request for reconsideration in respect of our Rule 153  
9 application, but we will be doing so very soon after the decision is  
10 issued.

11 PRESIDING JUDGE SMITH: Thank you for the heads-up.

12 We'll now move to the last point of today's agenda, at least the  
13 last one that I have.

14 On 13 October 2025, following *inter partes* consultations with  
15 the parties and the participants, the Thaci Defence, one, requested  
16 that the parties' final trial brief be submitted on 30 January 2026,  
17 or 60 days after the closing of evidentiary proceedings, whichever is  
18 later; and, two, noted that while Victims' Counsel did not join this  
19 request, he did not oppose a reasonable proposal for a new deadline  
20 that does not affect the expeditious conclusion of these proceedings.

21 Now that the last witness of the Defence case has testified, or  
22 at least what we are now assuming will be the last one, knowing that  
23 there is one possibility left, and in light of the submissions heard  
24 during today's Status Conference, the Panel wishes to hear from the  
25 parties and participants as to when they envision that they will be

1 in a position to file their final trial briefs or the Impact  
2 Statement, as the case may be.

3 Beginning with the SPO.

4 MR. PACE: Yes. As previously communicated, the SPO joins the  
5 request for a 30 January 2026 deadline or a deadline 60 days after  
6 the close of evidentiary proceedings, pursuant to Rule 134, whichever  
7 is later. The joint request is reasonable.

8 Throughout the trial, evidence has been admitted and issues  
9 resolved on the understanding that the parties and participants would  
10 have the opportunity to make submissions on ultimate weight and  
11 present their respective cases on the basis of the evidentiary record  
12 as a whole at the close of the trial. Final briefs provide that  
13 opportunity. They're an important phase of the trial and of the  
14 adversarial process, particularly in circumstances of a case of this  
15 size and complexity as the one we are dealing with.

16 While, of course, parties and participants are expected to work  
17 on and progress their briefs over the course of the trial, adequate  
18 time should be given after the close of evidentiary proceedings to  
19 focus on final submissions, considering that at earlier phases  
20 resources are necessarily diverted, and, naturally, the evidence as a  
21 whole cannot be adequately assessed and final positions taken until  
22 the presentation of evidence is complete.

23 In this respect, earlier this year the Presiding Judge indicated  
24 that a certain degree of latitude would be available in relation to  
25 timing of final briefing, and that's from the 19 February transcript.

1           The reasonable nature of the joint request, which is agreed to  
2   by all parties, and that should have some weight in and of itself, is  
3   also evidenced by the fact that in the other cases before this Court,  
4   which everyone here will agree with are a fraction in terms of scope  
5   and complexity of the case we're in today, in two of those cases the  
6   parties got a 30-day minimum, which is prescribed in the rules, and  
7   in another case they got 45.

8           Amongst the other factors evidencing the reasonable nature of  
9   this joint request are that the indictment spans one-and-a-half  
10  years; the charges concern ten counts of war crimes and crimes  
11  against humanity at locations across Kosovo and parts of Albania,  
12  with over 400 alleged incidents of detention and over a hundred  
13  alleged victims of murder or killing; the evidence of over 250  
14  witnesses has been heard or otherwise admitted; over 5.000 items of  
15  evidence have been admitted into evidence; and decisions on over 300  
16  tendered items remain outstanding.

17          Other than being reasonable, the request is also realistic.  
18  Evidentiary matters and related litigation continue. We now know  
19  that the Defence has one week to inform the Panel whether any further  
20  request will be made, and we learned yesterday of the Panel's  
21  intention to issue any pending decisions by 1 December.

22          And it's also realistic to understand that, depending on the  
23  outcome of those decisions, even if by 1 December, one party or  
24  another may, for example, seek leave to appeal. The Panel must also  
25  give the SPO adequate opportunity to file any motions for rebuttal

1 evidence. I drafted this before Your Honour told us that we would  
2 have to do so immediately, within one day, but I reiterate our  
3 request and we'll see how that goes.

4 And in this context, bearing in mind where we're at now in the  
5 trial, the intention the Panel notified on 2 September of this year  
6 to set a deadline for final briefs before the commencement of the  
7 judicial recess, which would be Friday, 19 December, is not realistic  
8 any longer.

9 And in terms of setting a realistic deadline, we also ask the  
10 Panel to consider the pace at which the proceedings have progressed  
11 to date. The SPO called over 120 of its witnesses between April 2023  
12 and April 2025. The Victims case opened in July 2025, and the  
13 Defence case opened in September of this year. At each of those  
14 stages, understandably and necessarily, resources were diverted to  
15 ensure that each phase of the process proceeds fairly and  
16 expeditiously.

17 As soon as the ambitious target date for the SPO case was met,  
18 we focused resources on responding to Rule 130 requests, preparing  
19 for Victims' Counsel case, and then the Defence case. And in terms  
20 of preparation for the Defence case, it's not only the  
21 cross-examinations Your Honours have seen before you or the filings  
22 you have read in terms of our responses to Defence requests. We also  
23 prepared extensively to cross-examine witnesses who were dropped  
24 shortly before their scheduled appearance, some of whom were  
25 particularly documentary heavy and required extensive preparations.

1 And from our side, preparation for the Defence case also meant  
2 responding to *inter partes* disclosure requests, which ultimately  
3 required our office to commit extensive resources to document review  
4 for multiple weeks and disclose over 300 items in response.

5 And just to conclude, I will note that the Panel will certainly  
6 appreciate that providing the parties the adequate time that is being  
7 jointly requested is in the interest of justice, including the  
8 interest of victims of the alleged crimes, and it's also in the  
9 Panel's best interests in terms of ensuring that the best possible  
10 assistance to the Panel is given when ultimately deliberating and  
11 reaching its judgment. Thank you.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. MISETIC: Obviously, it's a joint proposal, so we join in  
14 much of what was said there. I would also add, specific to the Thaci  
15 Defence is we have been very intensively working on the Defence case  
16 thus far and simultaneously trying to do as much as we could to get  
17 ready for the final briefs. But there is no way that we could devote  
18 sufficient resources to assist the accused in assessing 25.865 pages  
19 of transcripts, 11.568 individual items of evidence that have been  
20 admitted, and as you have said, as the Trial Panel, repeatedly, in  
21 admitting evidence, that the accused would have time to comment on  
22 the weight that should be given to this evidence at the appropriate  
23 time. And I would submit to you that the accused, in fact, will not  
24 be given sufficient time to be commenting on weight, particularly the  
25 Thaci Defence, if we only have two to three weeks from the close of

1 the evidentiary phase of this case.

2 So we would ask, as the parties have jointly requested, that the  
3 deadline be 30 January. Thank you.

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

5 Mr. Dixon.

6 MR. DIXON: Yes, thank you, Your Honours. The parties, as  
7 Your Honours have previously directed, spent a lot of time going  
8 backwards and forwards to look at coming up with a joint common  
9 position in respect of timing but also in respect of word count,  
10 which we may come to.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. DIXON: So do I hope that that has assisted. But these have  
13 been open, backward-and-forth discussions to look at a reasonable  
14 proposal to put to Your Honours as a joint position. So that's why  
15 we endorse it.

16 And also echo once again Your Honours' own words where, when we  
17 discussed this matter some time ago, I know we were talking about  
18 much longer periods than of ten weeks, it was indicated that our  
19 minds can be put at rest, those words were used, that there would be  
20 sufficient time, after two years of trial, to be able to address all  
21 of the myriad of matters that arise.

22 And just to echo Mr. Misetic's point as well in respect of the  
23 amount of exhibits, documents running to the hundreds of thousands of  
24 pages. Almost every one of them has to be addressed in relation to  
25 what weight to give them and how they relate to each other. That

1 just simply factually takes so much time.

2 So we reiterate the requests that have been made, and we would  
3 urge Your Honours to look at it in that light. Thank you.

4 PRESIDING JUDGE SMITH: Thank you, Mr. Dixon.

5 MR. ROBERTS: I don't need to repeat, obviously, what's already  
6 been said. I think the fact that the Prosecution and the Defence  
7 have agreed to this over the course of a -- not antagonistic trial,  
8 but a trial when we haven't always reached agreement, does show that  
9 it is a reasonable proposal in the circumstances. We have got to the  
10 stage at the end of this very long, very detailed and complex trial  
11 that we do need enough time to properly make submissions, and we need  
12 enough time to make effective and focused submissions that will  
13 assist Your Honours in coming to your judgment.

14 So we've, obviously, not called evidence, but we have been in  
15 court. We have been preparing and reviewing evidence that's been  
16 called by other Defence teams. We have been, to the extent we can,  
17 working on the final brief, but we do need a significant chunk of  
18 time now to focus on preparing that.

19 And as I said, the deadline and the agreement that we've  
20 reached, at least with the Prosecution, I would submit is entirely  
21 reasonable in the circumstances. Thank you.

22 PRESIDING JUDGE SMITH: Thank you, Mr. Roberts.

23 Mr. Ellis.

24 MR. ELLIS: Your Honours, I don't propose to repeat the  
25 submissions that have been made. We agree with them entirely and



1 endorse them.

2 The only additional factor affecting us is that, of course, as  
3 Your Honours know, we're drafting it in English but taking  
4 instructions in Albanian. And key sections of what we're drafting  
5 for the final brief will need to be translated by us for Mr. Krasniqi  
6 to get his instructions on them, and that, of course, takes some  
7 time. So we endorse the proposals made, Your Honours.

8 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

9 The Panel further notes that on -- oh, I'm sorry, Mr. Laws. I  
10 don't mean to ignore you.

11 MR. LAWS: No. Thank you. May I just say, for the record, that  
12 we regard the applications made on behalf of the parties as being  
13 reasonable. We therefore don't oppose them.

14 PRESIDING JUDGE SMITH: Thank you.

15 The Panel further notes that, on 17 November 2025, the parties  
16 and participants requested an extension of the word limit for the  
17 final trial briefs and Victims' Counsel's Impact Statement.

18 The parties requested that the SPO be granted 180.000 words and  
19 the Defence teams be granted 90.000 words for each of their final  
20 trial briefs. Victims' Counsel requests that he be granted 90.000  
21 words for the Impact Statement.

22 In this regard, the Panel emphasises that the parties' final  
23 briefs should focus on core factual issues and disputed issues  
24 instead of discussions of undisputed or irrelevant matters, such as  
25 historical background, Serbian crimes, discussion of matters already

1 decided, unduly lengthy procedural backgrounds. Final briefs will  
2 not be expected to address issues relating to potential reparations.  
3 The Panel also encourages the parties to engage in *inter partes*  
4 discussions with a view to identifying what is in dispute between the  
5 parties.

6 Do the parties and participants wish to make any submissions on  
7 this matter?

8 SPO, you may start.

9 MR. PACE: Yes, Your Honour. Briefly, the reasons why we  
10 requested an extension of the word count overlap with the reasons I  
11 put forward for the extension in time for the filing of the brief  
12 itself.

13 Just by way of context, I note that our pre-trial brief was just  
14 under 90.000 words. A lot has transpired since we filed that, and  
15 it's logical that more extensive submissions are required at the  
16 close of the case. And we underline that we're fully aware that the  
17 length of the filing is in no way commensurate to its quality, but  
18 our request to be granted 180.000 words as a maximum rather than the  
19 default 80.000, which is what would apply in this case, is justified  
20 considering the burden of proof, which lays on us, and the relevant  
21 factors going to the case's complexity that I mentioned earlier.

22 Thank you.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

24 Any comments from the Defence?

25 MR. MISETIC: Nothing from us.

1           PRESIDING JUDGE SMITH: Anything?

2           MR. DIXON: Nothing further. The agreement has been reached on  
3 a realistic assessment where we will cut it down to the core issues  
4 and give a full undertaking in that regard, and not go into any of  
5 the peripheral matters so that it assists Your Honours as much as  
6 possible.

7           PRESIDING JUDGE SMITH: Thank you, Mr. Dixon.  
8 Mr. Roberts, anything to add?

9           MR. ROBERTS: Nothing to add, no.

10          PRESIDING JUDGE SMITH: Mr. Ellis, anything?

11          MR. ELLIS: Nothing new, Your Honour.

12          PRESIDING JUDGE SMITH: All right. We will take that into  
13 consideration and include it in our decision. I think I told you,  
14 but we will try to have this decision on file by Friday, close of  
15 business.

16          Lastly, pursuant to Rule --

17          MR. LAWS: Sorry, Your Honour, if we're leaving the issue of the  
18 Impact Statement's length, may I just say that our request at 90.000  
19 words, there are 155 victims participating in the proceedings. If  
20 one takes out the part of the Impact Statement that's going to deal  
21 with the law and other miscellaneous issues, it's a few hundred words  
22 per victim is what it comes down to. So I just wanted to say that  
23 that's what shaped the size of our request. Thank you.

24          PRESIDING JUDGE SMITH: Thank you, Mr. Laws. Sorry if I skipped  
25 you again.

1 JUDGE GAYNOR: Can I just ask, Mr. Misetic, just to clarify one  
2 point. It's one figure you gave. You said that over 11.500, I think  
3 you said, items, have been admitted in evidence. What exactly are  
4 you referring to there? Because the number of exhibits seems  
5 considerably lower than that.

6 MR. MISETIC: Yes, it's all language versions would bring that  
7 number to 11.568.

8 JUDGE GAYNOR: Right. So the true figure, if I might put it  
9 that way, if we're -- is really one-third of that. Would you accept?

10 MR. MISETIC: I don't know. I haven't done the math.

11 PRESIDING JUDGE SMITH: A third to a half. A third to half.

12 MR. MISETIC: Yeah, a third to a half, something like that. But  
13 nevertheless, it's still --

14 JUDGE GAYNOR: You're counting every single language version. I  
15 understand. Thank you.

16 MR. MISETIC: Yeah.

17 MR. ELLIS: But there are also, I think, exhibits that have been  
18 admitted with multiple parts, if you like, so it would feature only  
19 as one P number but there may be ten or more parts to it.

20 PRESIDING JUDGE SMITH: You're right about that, Mr. Ellis.  
21 There are complex exhibits.

22 MR. MISETIC: The long story short, though, is two-and-a-half  
23 weeks to go through all of that and give a fair opportunity as -- as  
24 was indicated, you -- there were numerous objections to admission,  
25 and the answer was frequently: You'll have time to argue weight

1 later.

2 JUDGE METTRAUX: Mr. Misetic, while you're on your feet, I have  
3 to say I'm a bit concerned by some of the submissions I've heard, and  
4 I just want to be sure that I understand them properly, that the work  
5 on the brief is not yet to start for anyone.

6 We have spent under, I think, 20 days in court since the middle  
7 of April of this year, which is quite a few months, so I hope that my  
8 assumption is correct that the work on the brief has started long ago  
9 and that we are not in the process of starting that.

10 Can I just get that reassurance from you and from any of your  
11 colleagues?

12 MR. MISETIC: Well, I don't know why that is being directed at  
13 me specifically --

14 JUDGE METTRAUX: Just because you were on your feet,  
15 Mr. Misetic.

16 MR. MISETIC: Okay. Of course, we have been working on it for  
17 quite some time. That, still, as you know, I'll speak for our team  
18 alone, we had quite a lot of work on an expedited schedule enforced  
19 by the Panel to get the Defence case ready. That absorbs a  
20 significant amount of resources.

21 We had some people, but not me, for example, focused on the  
22 final brief, working on it, because I'm working on the Defence case.  
23 And we just happen to have Case 12, so there's a diversion of  
24 resources to that. And that's the reality for us. I can't speak for  
25 the other teams, but I think that's a reasonable --

1 JUDGE METTRAUX: You are right that I should ask the other teams  
2 as well --

3 MR. MISETIC: Thank you.

4 JUDGE METTRAUX: -- who have had either no case or no second  
5 case.

6 Mr. Dixon, can I take it that the work is, and has been, well  
7 underway for some time?

8 MR. DIXON: Yes, Your Honour. You can take it that the work has  
9 been ongoing for some time. It's a process of assessing as the  
10 evidence is heard, but then looking at accumulating it all together,  
11 cross-referencing, comparing, knowing what is coming in finally as  
12 well. But that has had to happen alongside preparing for Defence  
13 witnesses, even if we're not calling them, and dealing with a whole  
14 range of other submissions as well, bar tables, reviewing everything,  
15 and everything else that goes along with running a trial, as I'm sure  
16 Your Honours know.

17 So it's not like you can just take off three or four months to  
18 purely write the brief. It's done alongside a number of things. And  
19 we're really looking for a clear period now, where nothing else is  
20 going to arise, to bring it all together and make sure we can do  
21 justice to it for the accused but also for the Court as a whole in  
22 the interests of justice.

23 PRESIDING JUDGE SMITH: Mr. Roberts, anything?

24 MR. ROBERTS: No, but just to respond to Judge Mettraux's  
25 question. Yes, we have been working on the brief alongside our other

1 obligations. But, yes, as I believe I mentioned earlier, we've  
2 certainly been doing that alongside.

3 PRESIDING JUDGE SMITH: Mr. Ellis.

4 MR. ELLIS: Yes, the work has started, and it is with an eye on  
5 what we have been able to do thus far that I can say with confidence  
6 that we do not believe we are in a position to meet the provisional  
7 deadlines previously set by Your Honours, being before Christmas.  
8 And it was with an eye on what we have been able to do already that  
9 we made the joint proposal for the dates that have been given.

10 So I can say -- I know where we've got to, but I also know where  
11 we still have to go, and that is why we endorse the submissions  
12 already made.

13 JUDGE METTRAUX: And can I get the same reassurance from the  
14 SPO?

15 MR. PACE: Yes, you can. And I do know that having spent 20  
16 days in court since mid-April does not paint a fair or complete  
17 picture of the work that's been going on since then, which I've  
18 outlined before. And I also note that if we were only to be starting  
19 work on the final trial brief now, I assure you we would be asking  
20 for far longer than 60 days from the closing of evidentiary  
21 proceedings, which truly is the really bare minimum of what we need  
22 to ensure that you receive a product of good quality, as we hope we  
23 have been providing thus far.

24 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

25 Mr. Laws, anything to add?

1 MR. LAWS: Yes, we've been working on the Impact Statement.

2 PRESIDING JUDGE SMITH: All right.

3 MR. MISETIC: Judge Smith, I forgot to add one thing, and you  
4 should be alerted to it on the record. We were alerted yesterday, or  
5 the day before yesterday, in Case 12, that the Single Judge wishes to  
6 commence trial on 15 December, which would also significantly impact  
7 our ability to be able to deliver a final brief to you.

8 We will make submissions on that issue before the Single Judge,  
9 but, of course, without knowing how he intends to resolve this  
10 problem for us, we have to alert you to this issue.

11 PRESIDING JUDGE SMITH: Thank you. We were aware.

12 Lastly, pursuant to Rule 135, the Panel wishes to inquire from  
13 the parties and participants as to whether they can indicate the  
14 anticipated length of closing arguments and when they would be in a  
15 position to make such arguments.

16 Do the parties and participants have submissions on the matter?  
17 We need to kind of block this out sometime in the future so that the  
18 courtroom is reserved because, as was just pointed out, there could  
19 be another case going on in this room.

20 So we'll start once again with the SPO, the length of your final  
21 arguments and when to do them.

22 MR. PACE: Thank you, Your Honour. Of course, this is all going  
23 to be preliminary in nature. We note Rule 134 refers to closing  
24 statements taking place within 21 days of the filing of the briefs.  
25 Considering the same factors I mentioned earlier as to the complexity



1 of the case, and also, more crucially perhaps, considering that there  
2 will be no written responses to final trial briefs, we propose that  
3 holding closing arguments no sooner than 45 days from the filing of  
4 final trial briefs may be appropriate. 45 days there being, I would  
5 say, the bare minimum, and subject to, of course, close analysis of  
6 the content of the briefs and any unexpected arguments that could be  
7 addressed in there.

8 Other cases before this Court are not really comparable when it  
9 comes to measuring length and timing and that sort of thing for the  
10 reasons I've also mentioned earlier. But I do note that in the  
11 Mustafa case, if I'm not mistaken, there was a 60-day gap between the  
12 filings of the briefs and the closing arguments.

13 And I also note that, as counsel for Mr. Veseli has pointed out,  
14 and I referred to the same transcript of 19 February myself earlier  
15 today, the Presiding Judge had, indeed, earlier this year indicated  
16 that the parties would have reasonable time to absorb the final  
17 briefs before closing arguments. And in our submission, a minimum of  
18 45 days would be reasonable, at present at least.

19 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

20 Mr. Laws, do you want to weigh in on this at this point?

21 MR. LAWS: I would support what the Prosecution have just said.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. MISETIC: Our position is really related to the date of the  
24 filing of the final briefs. So if we get more time to file final  
25 briefs, we're not committed to 45 days. We'd like some time to,

1 obviously -- sufficient time to be able to process the SPO brief and  
2 to be able to meaningfully respond to it in oral arguments. But at  
3 this point, I think, our priority is to get sufficient time to file  
4 the written briefs.

5 In terms of how much time, we would ask for one full hearing day  
6 for the Thaci Defence to make final oral submissions.

7 PRESIDING JUDGE SMITH: [Microphone not activated] ... how long  
8 would it last?

9 MR. PACE: Yes, it's good you didn't get it from me, because  
10 Mr. Counsel went first, and we actually would agree with what counsel  
11 said for the Defence. We were envisioning that the Prosecution would  
12 have two days, so ten hours, and each Defence team would get one day  
13 each, which is five hours.

14 The other thing to consider is that traditionally, and we would  
15 also request in this case, there would be one last round. If there  
16 could be a reasonable break to allow us to reply, we would then ask  
17 for four hours for ourselves for our final submissions, and then an  
18 hour for each of the other teams.

19 JUDGE METTRAUX: So, just Mr. Pace, on your schedule, we would  
20 not be sitting for the next five months - do I get that right? -  
21 before we hear your final submissions.

22 MR. PACE: So on the joint schedule that's being proposed for --  
23 60 days for the final trial brief would be -- would bring us to early  
24 February, if all decisions are done by the first week of December.  
25 And after that, if we're going to go with the SPO's proposal for

1 45 days, then we would be looking at, if I'm not mistaken,  
2 mid-April -- mid-March or end of March for closing arguments.

3 JUDGE METTRAUX: So five months, give or take.

4 JUDGE GAYNOR: Mr. Pace, can I just ask you there. The  
5 Prosecution's final brief is the vehicle for the Prosecution to make  
6 all of its final argument. The final oral statement should merely be  
7 limited to responding to whatever is the most important issues you  
8 want to respond to in the Defence final briefs.

9 I simply don't understand why you need so much time to prepare  
10 for the final oral statement having already filed a very lengthy  
11 Prosecution final brief. Can you just elucidate a little more  
12 clearly why so much time is necessary.

13 MR. PACE: Certainly. I think it's important to start off from  
14 what we are guaranteed by the rules, which is 21 days. 21 days. And  
15 that has been applied even in other cases which, as I said, are far  
16 less complex. That is the minimum. We are barely requesting double  
17 the minimum.

18 As I also mentioned, we would not be filing any written  
19 responses to the Defence's written briefs. You can also imagine that  
20 once the briefs are filed, we need time to review those. And by  
21 "review," I don't mean casually or very quickly. We need to check  
22 that the assertions being made, as, obviously, the Defence will be  
23 doing for our brief, and as they should and is to be expected, are  
24 accurate. Checking accuracy in another party's brief takes time. We  
25 do that across four briefs for the Defence.

1           Coming up with the arguments takes time. We might not need the  
2   ten hours I asked for closing arguments. That's at the maximum end  
3   of the scale. But in terms of preparation and going about this and  
4   discharging our obligation in good conscience, yes, that is a very  
5   realistic timeframe. And it's also commensurate with what has been  
6   granted in other cases to our knowledge. And, again, I think we can  
7   just go off the fact that in Mustafa there were 60 days. Obviously,  
8   every case has its differences, but when you're considering a case of  
9   this nature, in our submission 45 days is reasonable.

10          Of course, if things change, depending on the briefs, if there  
11   is magically a lot of agreement on issues, then perhaps less time  
12   will be required. It doesn't look like that would be the case as  
13   things stand at the moment, though.

14          JUDGE GAYNOR: Thank you.

15          MR. MISETIC: Mr. President, I just wanted to alert you to a  
16   personal issue. I have a prior commitment from the 13th to 23rd  
17   February, which I've alerted Case 12 on. But if that is something  
18   that can't be avoided by the Panel, then I will reorganise myself.  
19   But I wanted to just alert you to that.

20          PRESIDING JUDGE SMITH: [Microphone not activated].

21          MR. MISETIC: Thank you.

22          PRESIDING JUDGE SMITH: I'm sorry. I wasn't on the record.  
23   We'll let you know by Friday on that.

24          [Microphone not activated].

25          MR. DIXON: Yes, Your Honours, our position is, as already said

1 by Mr. Misetic, that if there's an outer limit that you're working on  
2 for when the judgment is coming out, then working back, we would  
3 rather have more time to use within that period on the written briefs  
4 because that sets out -- as His Honour Judge Gaynor has said, that  
5 sets out the primary position. So we would rather have more time on  
6 that, which might then mean, depending on the time limits, a shorter  
7 time in between the two.

8 Of course, we need enough time to then respond, but that could  
9 be narrowed if we were given more time to put down the primary  
10 submission in writing. And then we would also ask for one day for  
11 the Defence for Mr. Veseli and an opportunity to reply to any reply  
12 afterwards, as the rules permit.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. DIXON: Thank you, Your Honours.

15 MR. ROBERTS: Similarly, Your Honour, I -- I agree with my  
16 colleagues, it does depend on the date for the final brief. But,  
17 obviously, our position is the same, that we would require more time  
18 for that rather than more time for final arguments. And we would  
19 similarly request a day for submissions for ourselves. Thank you.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. ELLIS: Yes, I think my submissions have been taken. I  
22 agree entirely with my colleagues for the Defence. It is the time  
23 for the final brief that is our primary concern at the moment.

24 PRESIDING JUDGE SMITH: Thank you.

25 MR. ELLIS: And I agree, one day for Defence submissions.

1           PRESIDING JUDGE SMITH: Thank you very much.

2           The Panel informs the parties and participants that in light of  
3           the matters discussed today, the Panel intends to issue a written  
4           order, as I said, by the end of the week, this week, setting  
5           deadlines and providing directions to the parties and participants in  
6           relation to the length of the final trial briefs and the Impact  
7           Statement; the date of the filing of the final trial briefs and the  
8           Impact Statement; date of the closing arguments; and other residual  
9           matters that remain unresolved following the Status Conference.

10          Before we conclude today, I want to make sure that I've at least  
11          let you bring up any additional matters that has not been mentioned.

12          MR. MISETIC: Two brief matters, Mr. President, unless the SPO  
13          wants to go first? Okay.

14          One is we alerted the Panel earlier today to a translation of  
15          P189 and P765.1. We would ask leave to add that. That has been --  
16          that is the official translation provided by the Language Services  
17          Unit.

18          PRESIDING JUDGE SMITH: Any objection to that, Mr. Prosecutor?

19          MR. PACE: As long as it is only being added and not replacing  
20          the page at issue, we have no objection.

21          PRESIDING JUDGE SMITH: [Microphone not activated].

22          MR. MISETIC: That's fine as long as the addition is recognised  
23          that that's the official --

24          PRESIDING JUDGE SMITH: The addition will be added.

25          MR. MISETIC: Thank you.

1           And then the second is, as we indicated to you on Monday, we  
2   have disclosed yesterday a public redacted version of the witness  
3   statement of General Clark, and we asked for leave to add that public  
4   redacted version to the existing Exhibit 1D430.

5           PRESIDING JUDGE SMITH: The same question.

6           MR. PACE: No objection.

7           PRESIDING JUDGE SMITH: The same response?

8           Okay. It can be admitted.

9           MR. MISETIC: That's all we have. Thank you.

10          PRESIDING JUDGE SMITH: Mr. Dixon.

11          MR. DIXON: Yes, thank you, Your Honours. I thought there might  
12   be an item on the agenda for sentencing submissions, because we have  
13   made a request in our filing on Monday for those to be dealt with  
14   separately after judgment and any conviction, subject to Rules 162  
15   and 164.

16          PRESIDING JUDGE SMITH: We don't intend to sentence him before  
17   the judgment.

18          MR. DIXON: But it's a question of when we make the submissions.

19          PRESIDING JUDGE SMITH: Yeah.

20          MR. DIXON: Our request is that those are done separately after  
21   the judgment, if there were any conviction. And there's a provision  
22   allowing a request to be made, so that has been included in our  
23   filing on Monday. So we'd ask that that be addressed because that  
24   might well affect also the timing and the length of any -- the word  
25   count of any submissions. But we would say that the proper course is

1 to do it afterwards and separately, in line with the way in which  
2 it's done now at the ICC or the practice at the ICC. We'd ask that  
3 that model be followed here, as there is an option for that to be  
4 done under the rules.

5 PRESIDING JUDGE SMITH: We understand your request.

6 MR. DIXON: Thank you, Your Honours.

7 JUDGE GAYNOR: On that point, Mr. Pace. I might have missed it,  
8 but the Prosecution didn't make submissions on bifurcated sentencing,  
9 did it, in your filing of Monday, 17 November. Does the Prosecution  
10 oppose the request for bifurcated sentencing proceedings?

11 MR. PACE: We didn't make submissions because we didn't  
12 understand that we were specifically asked to, but I'm ready to set  
13 out our position now, and we also had *inter partes* communication  
14 about it in anticipation of today's Status Conference.

15 The Prosecution's understanding is that, consistent with  
16 Rule 159(6) and previous decisions of this Court, sentencing is  
17 generally, unless there's an exceptional reason, to be addressed in  
18 the trial judgment, and the procedure under Rule 162 and 164 would  
19 not apply in this case.

20 In fact, in Case 07, this Panel noted that Rule 159(6) makes it  
21 clear that parties should assume that the Panel shall determine the  
22 appropriate sentence at the same time as the pronouncement of the  
23 trial judgment, and that in the diligent exercise of their  
24 responsibilities, counsel for the parties must have planned for and  
25 presented at trial all evidence they consider relevant to sentencing.



1           So in our submissions, there's no reason at present why  
2           sentencing should not be dealt with in the trial judgment, with the  
3           parties' submissions being included in the final trial briefs. Of  
4           course, this is a matter we defer to the Panel. If the Panel either  
5           once it receives those sentencing submissions in a final trial brief  
6           or if the Panel is minded not to request them to be included at this  
7           stage, we will adapt as necessary.

8           In fact, I know that in one of the decisions I'm referring to in  
9           Case 07, which is, from that case, 553, paragraph 18, the Panel had  
10          noted that the parties should make those submissions, and  
11          essentially, if anything changes, the Panel could still decide to  
12          issue the judgment and then still provide guidance on the next steps  
13          for sentencing. So ordering us to file our sentencing submissions  
14          now is not necessarily binding on the Panel having to issue sentence  
15          at the same time as the judgment.

16          As I said, we are flexible and we will do as ordered, of course.

17          PRESIDING JUDGE SMITH: Anybody else want to weigh in on this  
18          particular issue? It doesn't appear so.

19          Sorry, I didn't see you stand up.

20          MR. ELLIS: Your Honour, it's not on this particular issue, but  
21          before we close, can I simply raise that as part of the Defence  
22          closing submissions, we anticipate that Mr. Krasniqi may wish to  
23          speak for a portion of that. I just wanted to put that on notice at  
24          this point.

25          PRESIDING JUDGE SMITH: Thank you very much. I am assuming that

1       probably that goes for everybody.

2               MR. DIXON:   Yes, Your Honours.

3               PRESIDING JUDGE SMITH:   All right.   Any other residual issues  
4       that have not been discussed?

5               Thank you very much, everybody.   It's been an interesting ride,  
6       and I appreciate -- I think we all appreciate everybody's efforts to  
7       be collegial.   And I can say it's not that tempers don't flare  
8       occasionally, but all in all, it's been an interesting and  
9       enlightening experience.   And I appreciate everyone's efforts.   We've  
10      prodged and pushed and shoved and made your lives miserable, I'm  
11      sure, at times, and that's probably going to continue, but we do  
12      appreciate it, and we think it was very important for getting this  
13      huge number of witnesses and this enormous amount of material  
14      admitted and established in very, very efficient time.

15              So thank you all very much for your efforts.   I, at least,  
16      appreciate it, and I'm sure the Panel members do.

17              We're adjourned.

18                               --- Whereupon the hearing adjourned at 3.18 p.m.

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