

1 Friday, 27 February 2026

2 [Open session]

3 [Opening Statements]

4 [The accused entered the courtroom]

5 --- Upon commencing at 10.02 a.m.

6 JUDGE GOSNELL: Good morning, everyone. Before I start, I will  
7 give the opportunity to the photographers to take some photographs  
8 for a period of one minute, please.

9 Madam Court Officer, would you please call the case.

10 THE COURT OFFICER: Good morning, Your Honour. This is file  
11 KSC-BC-2023-12, The Specialist Prosecutor versus Hashim Thaci,  
12 Bashkim Smakaj, Isni Kilaj, Fadil Fazliu, and Hajredin Kuci. Thank  
13 you.

14 JUDGE GOSNELL: Thank you very much, Madam Court Officer.

15 I am Christopher Gosnell, the Single Trial Judge in this case.  
16 I sit in this case as a Single Judge pursuant to Article 15(2) of the  
17 Law on Specialist Chambers, which so permits in respect of crimes not  
18 classified as serious crimes under Article 22 of the Kosovo Criminal  
19 Procedure Code. Pursuant to Rule 124(1) of the Rules, I hereby open  
20 this trial and ask the parties to introduce themselves and their  
21 respective teams, starting, please, with the Prosecution.

22 MR. HAFETZ: Good morning, Your Honour. Thank you. Josh Hafetz  
23 on behalf of the Specialist Prosecutor's Office, and I'm joined by my  
24 colleagues, the Specialist Prosecutor Kimberly West, Matthew Halling,  
25 Line Pedersen, Claire O'Connell, Brent Hicks, and Earl Sullivan.

1 JUDGE GOSNELL: Thank you very much.

2 In the order on the indictment, Mr. Thaci, please.

3 MS. MENEGON: Good morning, Your Honour. My name is  
4 Sophie Menegon. I am Specialist Counsel for Mr. Hashim Thaci. And  
5 today, I am with Lea Allix-Cornelissen, Megan Hirst,  
6 Mischa Gureghian Hall, and Mr. Lirim Greicevci. Thank you.

7 JUDGE GOSNELL: Thank you very much.

8 Mr. Rees.

9 MR. REES: Good morning, Your Honour. My name is  
10 Jonathan Elystan Rees, King's Counsel. I am counsel for Mr. Smakaj.  
11 Mr. Huw Bowden, to my left, is co-counsel. And we are assisted by  
12 the following team members present in court today: Mr. Steven Lack,  
13 Muharem Halilaj, Nicholas Newson, and Matilda Falchetta Hainsworth.

14 JUDGE GOSNELL: Thank you.

15 Mr. Edwards.

16 MR. EDWARDS: Good morning, Your Honour. Behind me to the left  
17 is my team. Mr. Kilaj is represented and assisted by Hannah Chung,  
18 our intern; Admir Berisha; Omar Soliman; and then on my bench at the  
19 far right, Eva Kalb; my co-counsel Joe Holmes of the Bar of England  
20 and Wales; Alexandra Baer of the Bar of Quebec; and myself,  
21 Iain Edwards.

22 JUDGE GOSNELL: Thank you.

23 Mr. Young.

24 MR. YOUNG: Your Honour, good morning. I appear for  
25 Mr. Fadil Fazliu today. I am assisted in court today by Ms. Yuqing,

1 to my left, and I am assisted remotely by Ms. Beqiri and Ms. Veliu.  
2 Thank you.

3 JUDGE GOSNELL: Thank you.

4 Mr. Admiraal.

5 MR. ADMIRAAL: [Microphone not activated].

6 JUDGE GOSNELL: Madam Registrar.

7 THE REGISTRAR: [Microphone not activated].

8 JUDGE GOSNELL: The charges in this case were confirmed by the  
9 Pre-Trial Judge on 29 November 2024, who issued arrest warrants for  
10 Messrs Thaci, Smakaj, Kilaj, Fazliu, and a summons to appear for  
11 Mr. Kuci.

12 On 8 and 9 December 2024, the initial appearances of the accused  
13 took place. During those appearances, or in subsequent written  
14 pleas, all the accused pleaded not guilty to the charges.

15 On 16 April 2025, further to a decision by the Pre-Trial Judge  
16 authorising the addition of a mode of liability in respect of  
17 Mr. Thaci, the Specialist Prosecutor submitted an Amended Confirmed  
18 Indictment against the five accused, which sets out the charges  
19 against them in this case. I shall refer to this as the  
20 "indictment."

21 On 12 November 2025, the Pre-Trial Judge transmitted the case  
22 file to me as the Single Trial Judge.

23 On 28 November 2025, the Trial Preparation Conference and the  
24 Specialist Prosecutor's Preparation Conference were held pursuant to  
25 Rules 118 and 119.

1           On 4 December 2025, I scheduled the start of trial for  
2           24 February 2026, which I subsequently postponed to today at the  
3           request of the Thaci Defence.

4           I also note that I ordered the provisional release of Mr. Kilaj  
5           on 3 December 2025, and the provisional release of Mr. Smakaj and  
6           Mr. Fazliu on 3 February 2026.

7           Pursuant to Rules 124 and 125, the Specialist Prosecutor will be  
8           invited today to read a summary of the indictment. I note that the  
9           accused have consented to the reading of a summary instead of the  
10          entire indictment.

11          I will then ask the accused whether they understand the  
12          indictment and to confirm their initial pleas of not guilty.

13          I will then, pursuant to Rule 125, inform the accused of their  
14          rights and obligations.

15          We will then hear opening statements from the Prosecution and  
16          from those Defence teams that have elected to present their opening  
17          statements now rather than at the opening of their own cases.

18          We will then proceed with the testimony of the first Prosecution  
19          witness, Witness 7.

20          In light of the slight delay this morning, we'll proceed now  
21          until 11.30 and then resume then again at noon. And we'll see  
22          whether or not we can make up the extra half hour over lunch after I  
23          consult with the Registry as to whether or not that's feasible.

24          Mr. Prosecutor, the floor is yours to read a summary of the  
25          indictment, and please speak at a moderate pace so the interpreters

1 can do their work.

2 MR. HAFETZ: Thank you, Your Honour. I'm going to turn that  
3 over to my colleague, Mr. Hicks.

4 MR. HICKS: Good morning, Your Honour. The direction is well  
5 taken to speak moderately, and I will do my best for the  
6 interpreters.

7 You've already defined the date of the indictment. And just for  
8 the clarity of the record, references to KCC, when I read the  
9 summary, are to the Criminal Code of the Republic of Kosovo, code  
10 number 06/L-074 of 2019. References to the Law are to the Law number  
11 05/L053 on Specialist Chambers and Specialist Prosecutor's Office.

12 Hashim Thaci is individually criminally responsible for:

13 Count 1: Attempted obstruction of official persons in  
14 performing official duties by participating in the common action of a  
15 group between at least 26 June and 18 July 2023, a criminal offence  
16 against public order, punishable under KCC Articles 17, 21, 32(1) and  
17 (3), 35, and 401(2), (3), and (5), and Articles 15(2) and 16(3) of  
18 the Law;

19 Count 2: Attempted obstruction of official persons in  
20 performing official duties by participating in the common action of a  
21 group between at least 9 September and 30 October 2023, a criminal  
22 offence against public order, punishable under KCC Articles 17, 21,  
23 32(1) and (3), 35, and 401(2), (3), and (5), and Articles 15(2) and  
24 16(3) of the Law;

25 Count 3: Attempted obstruction of official persons in

1 performing official duties by participating in the common action of a  
2 group between at least 6 October and 2 November, a criminal offence  
3 against public order, punishable under KCC Articles 17, 21, 32(1) and  
4 (3), 35, and 401(2), (3), and (5), and Articles 15(2) and 16(3) of  
5 the Law;

6 Count 4: Violating secrecy of proceedings through unauthorised  
7 revelation of secret information between at least 26 June and  
8 18 July 2023, a criminal offence against the administration of  
9 justice and public administration, punishable under KCC Articles 17,  
10 21, and 392(1), and Articles 15(2) and 16(3) of the Law;

11 Count 5: Violating secrecy of proceedings through unauthorised  
12 revelation of secret information between at least 9 September and  
13 30 October 2023, a criminal offence against the administration of  
14 justice and public administration, punishable under KCC Articles 17,  
15 21, and 392(1), and Articles 15(2) and 16(3) of the Law;

16 Count 6: Violating secrecy of proceedings through unauthorised  
17 revelation of secret information between at least 6 October and  
18 2 November 2023, a criminal offence against the administration of  
19 justice and public administration, punishable under KCC Articles 17,  
20 21, and 392(1), and Articles 15(2) and 16(3) of the Law;

21 Count 7: Violating secrecy of proceedings through unauthorised  
22 revelation of the identity and personal data of a protected witness  
23 between at least 6 October and 2 November 2023, a criminal offence  
24 against the administration of justice and public administration,  
25 punishable under KCC Articles 17, 21, 392(2), and Articles 15(2) and

1 16(3) of the Law;

2 Count 8: Contempt of court between at least 26 June and 18 July  
3 2023, a criminal offence against the administration of justice and  
4 public administration, punishable under KCC Articles 17, 21, and 393,  
5 and Articles 15(2) and 16(3) of the Law;

6 Count 9: Contempt of court between at least 1 and  
7 13 September 2023, a criminal offence against the administration of  
8 justice and public administration, punishable under KCC Articles 21,  
9 35, and 393, and Articles 15(2) and 16(3) of the Law;

10 Count 10: Contempt of court between at least 9 September and  
11 30 October 2023, a criminal offence against the administration of  
12 justice and public administration, punishable under KCC Articles 17,  
13 21, and 393, and Articles 15(2) and 16(3) of the Law;

14 Count 11: Contempt of court between at least 6 October and  
15 2 November 2023, a criminal offence against the administration of  
16 justice and public administration, punishable under KCC Articles 17,  
17 21, and 393, and Articles 15(2) and 16(3) of the Law.

18 Bashkim Smakaj is individually criminally responsible for:

19 Count 12: Attempted obstruction of official persons in  
20 performing official duties by participating in the common action of a  
21 group between at least 9 September and 30 October 2023, a criminal  
22 offence against public order, punishable under KCC Articles 17, 21,  
23 33, 35, and 401(2) and (5), and Articles 15(2) and 16(3) of the Law;

24 Count 13: Contempt of court between at least 9 September and  
25 30 October, a criminal offence against the administration of justice

1 and public administration, punishable under KCC Articles 21, 33, and  
2 393, and Articles 15(2) and 16(3) of the Law.

3 Isni Kilaj is individually criminally responsible for:

4 Count 14: Attempted obstruction of official persons in  
5 performing official duties by participating in the common action of a  
6 group between at least 6 October and 2 November 2023, a criminal  
7 offence against public order, punishable under KCC Articles 17, 21,  
8 33, 35, and 401(2) and (5), and Articles 15(2) and 16(3) of the Law;

9 Count 15: Contempt of court between at least 6 October and  
10 2 November 2023, a criminal offence against the administration of  
11 justice and public administration, punishable under KCC Articles 21,  
12 33, and 393, and Articles 15(2) and 16(3) of the Law.

13 Fadil Fazliu is individually criminally responsible for:

14 Count 16: Attempted obstruction of official persons in  
15 performing official duties by participating in the common action of a  
16 group between at least 26 June and 18 July 2023, a criminal offence  
17 against public order, punishable under KCC Articles 17, 21, 33, 35,  
18 and 401(2) and (5), and Articles 15(2) and 16(3) of the Law;

19 Count 17: Contempt of court between at least 26 June and  
20 18 July 2023, a criminal offence against the administration of  
21 justice and public administration, punishable under KCC Articles 21,  
22 33, and 393, and Articles 15(2) and 16(3) of the Law.

23 Hajredin Kuci is individually criminally responsible for:

24 Count 18: Contempt of court between at least 1 and  
25 13 September 2023, a criminal offence against the administration of

1 justice and public administration, punishable under KCC Articles 21,  
2 35, and 393, and Articles 15(2) and 16(3) of the Law;

3 Count 19: Contempt of court on or about 12 April 2023, a  
4 criminal offence against the administration of justice and public  
5 administration, punishable under KCC Articles 17, 21, and 393, and  
6 Articles 15(2) and 16(3) of the Law.

7 This concludes the reading of the summary, Your Honour.

8 JUDGE GOSNELL: Thank you very much.

9 I note that the accused are all present in court this morning,  
10 and I will now give the opportunity to each of them, pursuant to  
11 Rule 124(3), to state whether they understand the indictment and to  
12 confirm their pleas.

13 Mr. Thaci, could you please stand. Mr. Thaci, do you understand  
14 the indictment against you?

15 THE ACCUSED THACI: [Microphone not activated].

16 JUDGE GOSNELL: Could you repeat that, Mr. Thaci? It wasn't  
17 picked up by the interpreters.

18 THE ACCUSED THACI: [Interpretation] Yes, I do.

19 JUDGE GOSNELL: Thank you.

20 On January 6th, you pleaded not guilty to all counts of the  
21 initial indictment, and on 24 April 2025, you pleaded not guilty to  
22 all counts of the amended indictment. Do you confirm this plea of  
23 not guilty?

24 THE ACCUSED THACI: [Interpretation] I plead not guilty. I am  
25 entirely not guilty.

1 JUDGE GOSNELL: Thank you, Mr. Thaci. You may be seated.

2 Mr. Smakaj, could you please stand. Mr. Smakaj, do you  
3 understand the indictment against you?

4 THE ACCUSED SMAKAJ: [Interpretation] Yes, I do, Your Honour.

5 JUDGE GOSNELL: On 6 January, you pleaded not guilty to all  
6 counts of the indictment. Do you confirm your plea of not guilty to  
7 the charges against you?

8 THE ACCUSED SMAKAJ: [Interpretation] Yes, I do confirm that. I  
9 am totally not guilty. I plead not guilty for the two points in the  
10 indictment against me.

11 JUDGE GOSNELL: Thank you, Mr. Smakaj. You may be seated.

12 Mr. Kilaj, could you please stand. Mr. Kilaj, do you understand  
13 the indictment against you?

14 THE ACCUSED KILAJ: [Interpretation] Yes, I do.

15 JUDGE GOSNELL: During your Initial Appearance on  
16 9 December 2024, you pleaded not guilty to all counts of the  
17 indictment. Do you confirm your plea of not guilty to the charges  
18 against you?

19 THE ACCUSED KILAJ: [Interpretation] Yes, I do. I plead not  
20 guilty.

21 JUDGE GOSNELL: Thank you, Mr. Kilaj. You may be seated.

22 Mr. Fazliu, could you please stand. Mr. Fazliu, do you  
23 understand the indictment against you?

24 THE ACCUSED FAZLIU: [Interpretation] Yes, I do.

25 JUDGE GOSNELL: During your Initial Appearance on

1 8 December 2024, you pleaded not guilty to all counts of the  
2 indictment. Do you confirm your plea of not guilty to the charges  
3 against you?

4 THE ACCUSED FAZLIU: [Interpretation] I do confirm that entirely.  
5 I plead not guilty for any of the counts in the indictment.

6 JUDGE GOSNELL: Thank you, Mr. Fazliu. You may be seated.

7 Mr. Kuci, could you please stand. Mr. Kuci, do you understand  
8 the indictment against you?

9 THE ACCUSED KUCI: [Interpretation] Yes, I do.

10 JUDGE GOSNELL: During your Initial Appearance on  
11 9 December 2024, you pleaded not guilty to all counts of the  
12 indictment. You now have the opportunity to confirm this plea. Do  
13 you confirm your plea of not guilty to the charges against you?

14 THE ACCUSED KUCI: [Interpretation] I confirm the same before you  
15 today. I plead not guilty.

16 JUDGE GOSNELL: Thank you very much. You may be seated.

17 Messrs Thaci, Smakaj, Kilaj, Fazliu, and Kuci, I will now inform  
18 you of some important rights that you are afforded before this Court  
19 pursuant to its legal framework.

20 You have the right to remain silent without such silence being a  
21 consideration in the determination of innocence or guilt.

22 You have the right not to be compelled to confess guilt or to  
23 testify.

24 You have the right not to incriminate yourself or your immediate  
25 family members.

1           You have the right to be represented by counsel. And I note  
2 that each of you are, indeed, represented by counsel here.

3           You have the right to have adequate time and facilities for the  
4 preparation of your defence and to communicate with your counsel.

5           You have the right to be tried within a reasonable time.

6           You have the right to examine or have examined the witnesses  
7 against you and to obtain the attendance and examination of witnesses  
8 on your own behalf.

9           And you have the right to make an unsworn statement relevant to  
10 the case and may appear as a witness under oath.

11           I'm also required by our rules to inform you of your obligations  
12 and measures provided pursuant to Rule 161(2) of the Rules.

13           As the Single Trial Judge in this case, I oversee order in the  
14 courtroom and in the public gallery, as well as the conduct of all  
15 participants.

16           Although I am sure this will not be necessary, I may order the  
17 temporary removal of an accused from the courtroom and continue the  
18 proceedings in your absence if you persist in disruptive conduct  
19 following a warning that such conduct may result in removal from the  
20 courtroom. During any removal, your interests will be represented by  
21 your counsel, and provisions will be made for any accused to observe  
22 the proceedings and to instruct counsel from outside the courtroom.

23           And for everyone else in this courtroom and the public gallery,  
24 I may take appropriate measures as necessary to ensure the dignity  
25 and decorum of proceedings, or for security reasons, and to protect

1 the right of the accused to a fair and public hearing, including  
2 ordering the removal or search of any person.

3 Before proceeding with opening statements, a few ground rules  
4 for the proceedings are worthy of mention at this stage.

5 Hearings will be held in open session unless otherwise requested  
6 by the parties. I invite the parties to request private or closed  
7 session when necessary, but would request that in general such  
8 references be avoided to the extent possible and that, where  
9 necessary, such questions be grouped together.

10 I note that this case may involve information of significant  
11 sensitivity, so I would remind the parties to exercise great care to  
12 avoid revealing the names of any protected witness or other  
13 confidential information, whether during the course of public  
14 hearings or outside the courtroom.

15 I would also remind everyone of the additional safeguards in  
16 place, namely the in-court redactions procedure set out in  
17 paragraph 10 of the Decision on the Conduct of Proceedings, and also  
18 to remind everyone that evidence and other audio-visual materials  
19 shown in the courtroom, including whatever may be used today during  
20 opening statements, will not be broadcast publicly unless otherwise  
21 ordered by the Single Trial Judge.

22 Before I give the floor to the Prosecution, I am required,  
23 pursuant to Rule 118(5), to set a target date for the closing of the  
24 Specialist Prosecutor's case. Given the time estimates of the  
25 parties for the examination and cross-examination of the SPO's

1 witnesses, all SPO witnesses should be heard by Friday, 6 March 2026.  
2 As there may be motions regarding the admission of evidence, as well  
3 as an outstanding motion in respect of Witness 8 that will need to be  
4 dealt with after his testimony, I hereby set the target date for the  
5 closure of the SPO case for Friday, 13 March 2026. I note that this  
6 is a target date only, and that a final date for the closure of the  
7 SPO case will be set after hearing submissions from the parties.

8 I note that opening statements are not evidence, but rather a  
9 submission as to the facts that a party will endeavour to prove, or  
10 its position on the law. Accordingly, I do not expect any objections  
11 will need to be made during the course of any party's opening  
12 statements. If exceptionally any party wishes to make such an  
13 objection, I request that they do so at the end of the opening  
14 statement.

15 Mr. Prosecutor, the floor is yours. You have one and a half  
16 hours, please.

17 I see that Mr. Thaci has raised his hand and seeks the floor.  
18 Does counsel have any idea what this may be about?

19 MS. MENEGON: No, Your Honour. May I consult him?

20 JUDGE GOSNELL: Yes, please.

21 [Specialist Counsel confer]

22 MS. MENEGON: I thank you, Your Honour. You may proceed. Thank  
23 you.

24 JUDGE GOSNELL: Thank you.

25 Mr. Prosecutor.

1 MR. HAFETZ: Thank you, Your Honour. Just two housekeeping  
2 matters to address, one thing you just raised, and then on the  
3 timing.

4 With the public issue in mind, all of our slides and  
5 demonstratives are intended to be shown entirely to the public live,  
6 and that's been communicated. They've been properly redacted if they  
7 need to be, so there is no need for that to be in private.

8 And just for timing, Your Honour -- and one other thing, there  
9 is no need for simultaneous translation of the audio-visual material  
10 that's played. It has translation rolling on the screen -- or in the  
11 exhibit itself.

12 On the timing, we'll be a bit longer than 90 minutes with  
13 Your Honour's indulgence. We will definitely be under two hours.  
14 And it's broken in, just for planning purposes, into four parts.

15 I'm going to turn it over to the Specialist Prosecutor in just  
16 one second for some introductory remarks, then I will address the  
17 Court, and then Mr. Hicks and Ms. O'Connell will briefly address the  
18 Court on the law.

19 Thank you.

20 JUDGE GOSNELL: That's fine. And in light of that assurance  
21 then, I order that the audio-visual materials may be broadcast  
22 publicly.

23 MR. HAFETZ: Thank you, Your Honour.

24 JUDGE GOSNELL: And just to remind the Prosecution, you have  
25 until 11.30 for the -- we'll be breaking at 11.30.

1 MR. HAFETZ: Understood, Your Honour. Thank you.

2 MS. WEST: Good morning, Your Honour, Madam Registrar, and all  
3 in and around the courtroom.

4 Your Honour, I am pleased to have this opportunity to speak to  
5 you.

6 Today we come before you to address Hashim Thaci and the other  
7 accused's attempts to undermine and manipulate the framework of this  
8 Court. They deliberately violated judicial decisions that were  
9 designed to ensure witnesses and victims could testify freely,  
10 without fear or influence, and could trust that their identities and  
11 words will remain confidential to the Court and to the parties.

12 Hashim Thaci is charged with repeatedly and systematically  
13 attempting to interfere with that witness testimony and with  
14 violating multiple Court orders aimed at protecting confidential  
15 witness information. His co-accused are charged with unlawfully  
16 participating in these crimes.

17 The conduct of the accused strikes at the very heart of the rule  
18 of law and this Court itself, which exists within the Kosovo judicial  
19 system, to ensure independent and fair and secure proceedings. That  
20 is why we are here.

21 Whether the accused were successful in their efforts to  
22 influence witnesses does not matter. The reason we committed  
23 resources to this case is to protect the integrity of the proceedings  
24 in Case 06 and to ensure that the world and the Kosovo public  
25 understand that anyone who attempts to intervene in the truthful

1 testimony of any witness we put before this Court will be held to  
2 account. Upholding the rule of law means that no one is above the  
3 law. The law applies equally and everyone is accountable.

4 And we know that the people of Kosovo take these charges as  
5 seriously as we do because the creation of this Court included not  
6 only war crimes and crimes against humanity in its jurisdiction, but  
7 also specifically included the crimes charged in this case:  
8 obstruction of official persons in performing their duties, violating  
9 the secrecy of the proceedings, and contempt of court.

10 We also know that the people of Kosovo want the rule of law  
11 upheld in their own courts and that they recognise it as essential.  
12 And to the extent that a small but powerful group of people in Kosovo  
13 placed their own private interests over all others, the facts of this  
14 case will expose and condemn that small group.

15 As the Court is aware, this case is primarily built on  
16 recordings and seized documents. You will hear the accused speaking  
17 among themselves, and you will see the documents they exchanged, and  
18 your determination as to what is intended by their words will be a  
19 major part of the case.

20 But before I speak more on that issue, it is important to note  
21 now what this case is not about. This case does not concern the  
22 legitimate defence of Hashim Thaci in his war crimes trial.  
23 Hashim Thaci has a large Defence team in that trial, and he had  
24 unsupervised access to members of his team through privileged  
25 meetings and calls. None of those meetings and calls have been

1 recorded or observed. Nobody but Thaci and his Defence counsel know  
2 what was said in those meetings and calls. The only meetings and  
3 calls that were recorded, pursuant to judicial authorisation, were  
4 unprivileged ones, with Thaci knowing in advance that they were meant  
5 to be used for unlawful contacts about witnesses. The fact that no  
6 privileged calls or meetings were recorded reflects the importance  
7 attached by all in the KSC and the SPO to the legal representation of  
8 accused.

9 This prosecution is also not about policing word content, nor is  
10 it about the right of the accused to speak freely. And this case is  
11 not about Thaci's right to challenge the charges against him in  
12 Case 06 or play an active role in his own defence. None of these  
13 things is a crime. And Thaci had, and continues to have, all those  
14 important rights.

15 What is criminal, however, is Thaci's devising, instructing, and  
16 directing an extensive plan to influence witnesses and interfere with  
17 the free and fair administration of justice. What is also criminal  
18 is revealing confidential, protected witness information in violation  
19 of perfectly clear Court orders, Court orders put in place to  
20 specifically ensure that witnesses feel safe to come here and testify  
21 before this Court.

22 And although the intent of Thaci's recorded instructions was to  
23 make sure the expected witness testimony in his war crimes case,  
24 Case 06, was diluted and made less inculpatory to Thaci's benefit,  
25 this case is not a determination of his criminal liability in

1 Case 06. It is a determination as to whether Thaci's instructions to  
2 influence witnesses and his disclosure of confidential court material  
3 in Case 06 are criminal violations separately in and of themselves.

4 And Thaci had a receptive audience in his co-accused. The  
5 recordings will show Hashim Thaci's influence over the co-accused and  
6 the eagerness in which they willingly and enthusiastically engaged in  
7 his plan.

8 In Accused Fadil Fazliu's case, Fazliu offered up his own  
9 suggestions as to what the witness should say and even use of his son  
10 to assist in the arrangements.

11 In Accused Isni Kilaj's case, Kilaj received from Thaci and took  
12 from the detention centre copies of a witness's confidential prior  
13 statements for the specific purpose of interfering with the witness's  
14 testimony. Those documents, as you will hear, were later seized in  
15 Kilaj's home.

16 In Accused Bashkim Smakaj's case, Smakaj readily joined Thaci's  
17 mocking of certain witnesses and received a ten-page printed document  
18 reflecting a narrative exculpating Thaci's criminal responsibility in  
19 Case 06 and consistent with Thaci's instructions to the targeted  
20 witnesses. That document, as you will hear, was later seized from  
21 Smakaj's car.

22 In Accused Hajredin Kuci's case, Kuci repeatedly provided his  
23 own suggestions on what the targeted witnesses should say in order to  
24 benefit Thaci. Indeed, Kuci was well placed to make such suggestions  
25 as he, at the time, had been representing co-accused Kadri Veseli in

1 Case 06 for over a year.

2 The recordings in this case do not just reflect an agreement  
3 among the co-accused to commit crimes, but speak to loyalty and  
4 allegiance to the ring leader himself, Hashim Thaci, and a clear  
5 commitment to do his bidding. All the charged conduct had a single  
6 and precise goal: obstruct and undermine the war crimes proceedings  
7 to the benefit of Hashim Thaci.

8 This conduct represents a clear and present danger to the rule  
9 of law, which requires that witnesses must be able to come to court  
10 and tell their stories free of pressure, influence, or interference  
11 of any kind. It is important for the legacy of this institution that  
12 these facts are adjudicated and aired publicly so that a true and  
13 credible record is created. It is just as important that we honour  
14 our commitment to the Kosovo public and the world by ensuring that we  
15 treat everyone equally and that no one is above the law.

16 Your Honour, you will hear from my colleagues regarding more  
17 specifics of the case. Mr. Hafetz will summarise our evidence,  
18 including the recordings and the corroborating documentary evidence.  
19 And then Mr. Hicks and Ms. O'Connell will speak to you about the  
20 applicable law and elements.

21 Thank you.

22 MR. HAFETZ: "And tell him, 'Simplify it, don't get mixed up.  
23 Don't get mixed up, man.'"

24 "Tell him, 'Be brief, be brief. Be brief. Be brief.' Tell  
25 him, 'Do not philosophise.'"

1 "They will give it to him, but he has to correct them. When he  
2 comes here, before entering the courtroom he has to correct them."

3 And, "Tell him, 'You never saw the two of them from 1994 to  
4 1998.' Shut this down."

5 These are all instructions issued by Hashim Thaci to his  
6 co-accused in this case while he was detained here in The Hague in  
7 2023. Thaci's direct commands to his co-accused tell you exactly  
8 what this case is about, and that is Mr. Thaci's sustained and  
9 systematic efforts to obstruct this Tribunal's work by attempting to  
10 influence and interfere with witness testimony, revealing  
11 confidential witness information, and disregarding and disobeying  
12 clear Court orders.

13 The Prosecution case will show that each Thaci instruction - and  
14 there are many, many more in evidence - had a clear target and a  
15 clear goal. The targets were specific witnesses whose testimony  
16 Thaci deemed a threat to him. And the goal was to neutralise each  
17 threat so that Thaci could evade justice.

18 And each of Thaci's co-accused sitting here today were his  
19 willing and eager partners to achieve their common goal. Three of  
20 them - Mr. Fazliu, Mr. Kilaj, and Mr. Smakaj - did Mr. Thaci's  
21 bidding in groups.

22 The fourth, Mr. Kuci, is charged with contempt of court for  
23 agreeing on his own with Mr. Thaci to execute his instructions, and  
24 also, separately, for committing contempt of court in his own right  
25 by blatantly violating a Court order. As the evidence will show,

1 when Mr. Kuci schemed with Thaci to interfere with witness testimony,  
2 he knew the relevant rules he was breaking because he was also  
3 working as a Defence team member for Kadri Veseli.

4 Your Honour, the story of this case begins here in The Hague,  
5 and it begins with certain facts that are beyond reasonable dispute.

6 On 5 November 2020, Mr. Thaci was arrested and charged with  
7 three other former high-ranking members of the Kosovo Liberation Army  
8 for war crimes and crimes against humanity offences arising from the  
9 1998-1999 war for the liberation of Kosovo.

10 As the Specialist Prosecutor has already said, Mr. Thaci is not  
11 on trial here now in this courtroom for those offences. But it's a  
12 fact that if convicted of the charged offences in that case, known as  
13 Case 06, Mr. Thaci faces a lengthy prison term, providing a  
14 significant motive for him to use any and every means possible to  
15 avoid conviction. And Thaci's detention centre visits with his  
16 co-accused here, all loyal associates, became one of those means.

17 Following his arrest in 2020, the Case 06 Pre-Trial Judge  
18 ordered Thaci detained pending trial. In finding his detention  
19 necessary, the Pre-Trial Judge explicitly recognised the "general,  
20 well-established, and ongoing climate of intimidation of witnesses  
21 and interference with criminal proceedings against former KLA  
22 members." It is precisely because of that climate that these  
23 proceedings are taking place here in The Hague in the first place.

24 As the pre-trial phase of Case 06 progressed, the Court issued  
25 judicial orders aimed at protecting from public disclosure the

1 identities and other private information of a substantial number of  
2 Prosecution witnesses. The Court issued these measures to protect  
3 the witnesses from potential intimidation and interference.

4 The Court also issued strict contact protocols regulating the  
5 ability of the Case 06 accused to, number one, contact Prosecution  
6 witnesses; number two, discuss the subject matter of witness  
7 testimony; and, three, to reveal witness identities to anyone outside  
8 of their Defence teams.

9 One such order expressly prohibited the accused from contacting  
10 Case 06 witnesses, directly or indirectly, without the Court's  
11 permission. In other words, this order meant that Mr. Thaci was not  
12 allowed to use his friends and associates who visited him here in  
13 The Hague to contact SPO witnesses to tell them how to testify.

14 With these judicial orders in place, and as the start of trial  
15 got closer, the Prosecution began disclosing to Thaci and the other  
16 Case 06 accused the identities of protected witnesses, along with  
17 their prior statements, the exhibits to be used with each witness at  
18 trial, and eventually the rough order in which the witnesses would  
19 appear. The Court was explicit: confidential witness information  
20 disclosed to the Defence, including not just witness names but even a  
21 person's status as an SPO witness, was to be protected at all times.

22 During this time, including the entire indictment period in this  
23 case, which is April through October 2023, Thaci was detained pending  
24 trial at the KSC detention centre. During his detention, Thaci had  
25 certain rights and privileges, including the use of a computer to

1 which no one else had access. Thaci could use this computer to help  
2 prepare his defence by reviewing confidential witness material  
3 disclosed to him. He also had the ability, with the assistance of  
4 detention centre staff, to print documents, including confidential  
5 SPO witness material. And in addition to his unconditional right to  
6 family contacts, he was also free to schedule in-person visits with  
7 his friends and associates.

8 Throughout this period, the detention centre had rules and  
9 regulations governing these visits. One rule was that all  
10 non-privileged visits, including all of Mr. Thaci's visits with the  
11 co-accused in this case, must take place within the sight and sound  
12 of a detention centre officer. Another rule was that detainees and  
13 their visitors were not permitted to exchange any items without the  
14 express prior permission of the head of the detention centre.

15 The rules were clear. The rules were public. And the rules  
16 were known to Thaci and to all his visitors, including his  
17 co-accused.

18 Your Honour, this is the factual and procedural backdrop for the  
19 charges in this case, and it is against this backdrop that Thaci's  
20 trial in Case 06 began in April 2023.

21 Together, if followed, the combination of Court orders,  
22 protective measures, and detention centre visit regulations would  
23 prevent the witness interference and obstruction of court proceedings  
24 that this Tribunal was designed to protect against, while  
25 simultaneously honouring Mr. Thaci's right to a free and fair trial,

1 his right to play an active role in his defence, including by  
2 accessing and even printing sensitive materials, and to maintain  
3 contacts not just with his family, but with a steady stream of  
4 visiting friends and associates.

5 But that is not what happened.

6 Thaci and his co-accused in this case chose not to obey these  
7 Court orders and rules. Instead, the evidence will show that nearly  
8 as soon as Case 06 began and witnesses started testifying, Mr. Thaci  
9 became laser-focused on preventing testimony from witnesses who might  
10 damage his case. He obsessed in particular over what those witnesses  
11 would say about him, what their -- risks their testimony posed to  
12 him, to his case, and to his conviction.

13 And then, determined to get the outcome he wanted, determined to  
14 minimise or eliminate any testimony he thought could hurt him,  
15 Mr. Thaci shattered the KSC's detention and confidentiality rules and  
16 he weaponised the system for his benefit. He turned the detention  
17 centre and his constant visits with his associates there into a  
18 headquarters for attempted obstruction, where he repeatedly targeted  
19 witnesses for interference, and whispered orders to his visitors on  
20 how the witnesses must testify to help his case.

21 He abused the Court's disclosure regime to mine the confidential  
22 witness statements disclosed to him to identify, sometimes down to  
23 the line, precisely what he wanted each particular witness to change  
24 from their prior statements. And he then used his computer and  
25 printing access to provide detailed hard copy interference

1 instructions for his co-accused to execute.

2 Mr. Thaci targeted two types of witnesses. The first were  
3 former KLA insiders who Thaci consistently and repeatedly identified  
4 as "decisive" to his fate, and who were expected to testify about the  
5 structure and the inner workings of the KLA, including Thaci's  
6 leadership role. The second type were specific victim witnesses who  
7 could directly implicate Thaci in charged Case 06 offences.

8 He studied their prior statements, and then he systematically  
9 used his non-privileged visits to tell his loyal associates,  
10 including his co-accused, what needed to be done, what each witness  
11 needed to change from his prior statements or testimony, and when the  
12 witness needed to change it, what the witness needed to say in court  
13 and how to say it, even how the witness should dress.

14 To execute his demands, Thaci formed discrete groups of his  
15 co-accused to target specific witnesses. These co-accused and the  
16 other uncharged group members consistently demonstrated their  
17 agreement to and participation in carrying out their common goal.

18 For each attempt, Thaci selected as his instruments of  
19 obstruction people who knew the witnesses, who had access to them,  
20 and had relationships with them.

21 In Mr. Kuci's case, Thaci did not rely on a group. Instead, he  
22 used a non-privileged visit with a member of another Case 06 Defence  
23 team member to try and interfere with multiple witnesses, including  
24 two KLA insiders and an alleged victim of mistreatment by the KLA.

25 We see Thaci's obstructive conduct at work on July 2nd, 2023,

1 when Mr. Fazliu visited Thaci at the detention centre. This is the  
2 basis for the group charge known as the Fazliu Group in the  
3 indictment.

4 Less than two weeks before that visit, on June 21st, 2023, the  
5 SPO informed the Case 06 accused that KLA insider Rrustem "Remi"  
6 Mustafa would be called to testify in early July. An important  
7 Prosecution witness, Mustafa was expected to testify for several  
8 days. Thaci knew from Case 06 disclosures the precise details of  
9 Mustafa's anticipated testimony, including about his role as a zone  
10 commander in the war.

11 Five days after the SPO announced the upcoming witness order to  
12 the Defence on 26 June 2023, Fazliu's son Fahri Fazliu reached out to  
13 Mustafa to set up a meeting between Mustafa, Fahri, and Fadil Fazliu.  
14 Three days later, on 29 June, the three men met in Kosovo. Then,  
15 just a few days after that, Fadil Fazliu visited Thaci at the  
16 detention centre for about two hours. That visit was covertly  
17 audio-recorded pursuant to judicial order.

18 During that July visit, Thaci focused on Rrustem Mustafa's  
19 upcoming testimony. He referenced the witness by his nickname, Remi.  
20 Thaci identified Mustafa's testimony as decisive to his case. And  
21 Mr. Thaci explained how important it was for Mustafa to set a  
22 precedent for future witnesses by saying what Thaci wanted him to  
23 say.

24 Thaci told Fazliu - in detail - how he wanted Mustafa to  
25 testify, what Mustafa must say, how he should say it, what his

1 witness preparation session with the SPO would be like and how he  
2 should handle it. That Mr. Mustafa could return to Kosovo as a  
3 "hero" or a "disgrace," depending on how he performed. And then  
4 Thaci directed Fazliu to deliver his instructions to Mustafa before  
5 his testimony. To "get it done then."

6 And the audio recording of this visit shows that Fazliu didn't  
7 just agree to do what Thaci directed, he actively contributed his own  
8 ideas for what Mustafa must say in court and he took concrete steps  
9 to facilitate the interference. They shared a common plan.

10 Mr. Thaci continued his pattern of obstructive conduct on  
11 October 6th, 2023, when Mr. Kilaj and uncharged co-perpetrator  
12 Vllaznim Kryeziu visited Thaci at the detention centre as requested  
13 by Mr. Thaci. The three men, the Kilaj Group as charged in the  
14 indictment, met together at the detention centre for several hours.  
15 Again, their conversation was recorded pursuant to judicial order.

16 Thaci used his visitors to target a specific Case 06 witness.  
17 This time, though, the object of interference was not a KLA insider,  
18 but instead an alleged crime base victim in Case 06.

19 Thaci's motive, however, was the same. The victim witness,  
20 known as Witness 4 in this case, had previously implicated Thaci in  
21 his unlawful mistreatment by members of the KLA. Witness 4 was  
22 originally scheduled to testify about these events in November 2023.  
23 Thaci feared that Witness 4's testimony could severely damage him.  
24 And specifically, he feared that the witness would implicate Thaci in  
25 what was done to him. Thaci told Kilaj and Kryeziu what needed to

1 happen: Witness 4 needed to change a specific part of his prior  
2 testimony in order to undermine his prior identification of Thaci as  
3 involved in his mistreatment. Kilaj and Kryeziu made clear they  
4 understood and they agreed, and they actively engaged in the  
5 discussion of Witness 4 and other Case 06 witnesses throughout the  
6 visit.

7 But during this visit, Thaci left nothing to chance. He didn't  
8 just tell Kilaj and Kryeziu what Witness 4 needed to say. He showed  
9 them, with Kilaj taking notes. Using printed copies of Witness 4's  
10 confidential prior statements that were disclosed to him in Case 06,  
11 Thaci underlined - down to the part, page, and line number - exactly  
12 what the witness needed to change.

13 And he didn't stop there. He was so concerned that his  
14 instructions for Witness 4 be followed to the letter, he actually  
15 gave them a copy of the critical pages of Witness 4's statements to  
16 take from the detention centre. This was not just a clear violation  
17 of the detention centre rules. It was itself a crime.

18 During this same visit, Thaci also repeatedly revealed  
19 confidential information about multiple other Prosecution witnesses,  
20 all in violation of Court orders. For example, after describing the  
21 testimony of one protected witness whose evidence he disliked, Thaci  
22 told Kilaj and Kryeziu that the witness had "tainted his family" and  
23 "ruined the honour of the family." Mr. Kilaj agreed, repeatedly  
24 telling Thaci that the witness was "an imbecile."

25 After agreeing with Kilaj that this witness was "completely

1 stupid," Thaci immediately revealed the identity of another protected  
2 witness, this time praising what he liked about the witness's  
3 testimony, calling him "a real man," and then confirming where the  
4 witness was from.

5 The very next day, the 7th October 2023, Mr. Thaci continued his  
6 pattern of attempting to improperly influence Case 06. This time his  
7 visitors were Mr. Smakaj and Artan Behrami, an uncharged  
8 co-perpetrator in this case. This was Mr. Smakaj's second visit to  
9 Thaci in less than a month, and marked a continuation of his earlier  
10 visit on September 9th with the full Smakaj Group as charged in the  
11 indictment.

12 During both Smakaj visits, Thaci revealed Case 06 information,  
13 including details about the testimony of multiple protected witnesses  
14 given in private session. Thaci openly mocked victim witnesses,  
15 calling one a whore and ridiculing another for being disabled. Thaci  
16 laughed as he did so, and his visitors laughed with him.

17 But his main focus in both the September and October Smakaj  
18 visits was on one SPO witness in particular: Bislím Zyrapi. Zyrapi  
19 was an SPO witness who, like Mr. Mustafa, was anticipated to give  
20 evidence for several days about his role as a KLA insider. And just  
21 as with Mustafa during the July visit, Thaci identified Zyrapi by  
22 name and identified his testimony as "decisive" to his case. And  
23 then he honed in on what he wanted Zyrapi to say and how he wanted  
24 him to say it.

25 The evidence will show that Thaci provided a detailed narrative

1 for Zyrapi to follow to help Thaci's Case 06 defence. This  
2 narrative, in the form of a ten-page printed document, was seized  
3 from Mr. Smakaj's car just weeks after the 7 October visit, a fact  
4 I'll address in detail a bit later.

5 As he did with Mustafa in July, Thaci also focused on how Zyrapi  
6 should testify, instructing that he should be concise and not let his  
7 "tongue loose," and "not give opinions," and that the most emblematic  
8 sentence is "I don't know" or "I don't remember."

9 Again, the instructions during the Smakaj visits had one common  
10 purpose shared by all of the group members: minimise Thaci's role in  
11 and accountability for the offences charged in Case 06, to save him  
12 from conviction.

13 And, again, during both the September and October visits,  
14 Smakaj, along with other members of the group, willingly agreed to  
15 Thaci's instructions and provided their own concrete additions to the  
16 instructions for how Zyrapi should testify.

17 Now regarding Mr. Kuci. In his case, Thaci showed that he was  
18 so determined to interfere with Case 06 proceedings that he actually  
19 turned to a Defence team member of another Case 06 accused to assist  
20 him.

21 We see this in Kuci's visit to Thaci on 3 September 2023 as  
22 charged in the indictment. On that day, Kuci met with Thaci alone in  
23 the detention centre for three hours. By this time, Kuci had been a  
24 member of Kadri Veseli's Defence team for nearly two years.

25 THE INTERPRETER: Interpreter's note: The speaker is kindly

1 requested to slow down for the purposes of interpretation. Thank  
2 you.

3 MR. HAFETZ: As Thaci's decades-long friend who also had  
4 unfettered --

5 JUDGE GOSNELL: Mr. Hafetz, we just had a --

6 MR. HAFETZ: Oh, I'm sorry.

7 JUDGE GOSNELL: -- note from the interpreters asking that you  
8 slow down a little bit, please.

9 MR. HAFETZ: Certainly, Your Honour. I'm surprised they made it  
10 this long.

11 We see this in Kuci's visit to Thaci on 3 September 2023 as  
12 charged in the indictment. On that day, Kuci met with Thaci alone in  
13 the detention centre for three hours. And by this time, Mr. Kuci had  
14 been a member of Kadri Veseli's Defence team for nearly two years.  
15 And as Thaci's decades-long friend who also had unfettered access to  
16 all disclosed witness information in Case 06, Mr. Kuci was perfectly  
17 positioned to be another tool of witness interference and contempt of  
18 court.

19 The September visit shows Thaci engaging in the same witness  
20 targeting as the other examples I just discussed. After first  
21 talking about everyday topics, Thaci and Kuci started whispering  
22 about what really mattered to Thaci: getting Case 06 witnesses to  
23 testify the way he wanted.

24 He gave Kuci detailed instructions for at least three different  
25 witnesses. Two were KLA insiders, including again Bislim Zyrapi, and

1 the third was another crime base witness who was anticipated to  
2 testify about his alleged unlawful mistreatment by the KLA.

3 As with each of the other co-accused in this case, Kuci  
4 willingly agreed to execute Thaci's interference orders, and provided  
5 his own advice on what the witnesses needed to say to best help  
6 Thaci's case. To make sure that there was no confusion and that his  
7 instructions were followed properly, Thaci told Kuci to write down  
8 what Thaci was telling him. Kuci agreed.

9 And in the case of the victim witness, known as Witness 6 in  
10 this case, Thaci insisted that Mr. Kuci needed to act urgently  
11 because the witness was expected to testify soon. Thaci was so  
12 concerned about this timing that he told Kuci to start the work on  
13 the witness as soon as he landed back in Kosovo at midnight on  
14 September 6th. Kuci agreed, and his phone records show that he did  
15 as he was told.

16 In addition to committing contempt of court by agreeing to  
17 unlawfully contact witnesses for Thaci, Kuci is also charged with a  
18 separate contempt count for contacting Rrustem Mustafa in April 2023,  
19 just as Case 06 was starting. This contact was a direct violation of  
20 the Case 06 witness contact protocol. In his message, Kuci passed on  
21 to Mustafa the congratulations of an unnamed person for his "clear  
22 ideas about the country and the war." Ideas which notably align with  
23 the interference instructions Thaci issued to Mr. Fazliu during their  
24 July visit.

25 Your Honour, Thaci's attempts to influence and interfere with

1 witness testimony were not limited to the five recorded visits I just  
2 described.

3 As charged in the indictment and shown by the evidence,  
4 Mr. Thaci used multiple other visits to reveal confidential  
5 information and to issue witness interference instructions. The  
6 motive for the interference was always the same: to get witnesses to  
7 change prior estimates or otherwise shape their testimony to help  
8 Thaci's case. All that ever changed was the day on the calendar, the  
9 accomplice in the room, and the specific witness to be targeted.

10 So the question is how is the Prosecution going to prove all of  
11 this beyond a reasonable doubt? And the answer is with overwhelming  
12 evidence, nearly all of which has already either been admitted in  
13 this case or judicially noticed.

14 This evidence will include the judicially authorised audio  
15 recordings themselves of Thaci's visits with his co-accused, as well  
16 as with other visitors on other days, where he focused on targeting  
17 SPO witnesses for interference and revealing confidential witness  
18 information. The recordings reveal, in Thaci's and the accused's own  
19 words, often whispered, their utter contempt for the witnesses, for  
20 the Court, and for the rule of law.

21 The evidence will also include KSC detention records confirming  
22 the presence of each accused in each visit, recorded detention centre  
23 phone calls, KSC Court orders, decisions, and regulations showing the  
24 rules and orders Thaci and his co-accused violated, and the timing of  
25 certain key events in Case 06 that give context to the attempted

1 obstruction.

2 It will include Case 06 Court records as they were disclosed to  
3 Thaci in Case 06, which Thaci then used to target specific witnesses  
4 and to reveal their confidential information in violation of Court  
5 orders. Physical evidence collected from the accused pursuant to  
6 judicially authorised seizures, including documents that were printed  
7 from the detention centre, then used by Thaci and his co-accused to  
8 target witnesses during their visits, and then seized from his  
9 co-accused's residences in Kosovo.

10 It will include evidence collected from seized mobile phones and  
11 other electronic devices, including communication records directly  
12 corroborating what was discussed during Thaci's visits.

13 It will include records collected from the KSC's detention  
14 centre computer and printing systems used by Thaci, including  
15 evidence showing the printing of certain documents used to target  
16 witnesses for interference.

17 And, finally, evidence and expert testimony further showing that  
18 certain witness-related documents seized from the accused were, in  
19 fact, printed by the only detention centre printer used for detainee  
20 printing and available to Mr. Thaci.

21 Your Honour, this evidence is mutually corroborating and  
22 reinforcing, and it shows - beyond any reasonable doubt - that the  
23 accused committed each of the charged offences.

24 So let's talk a little bit more about the details of how the  
25 evidence fits together.

1           There are now in evidence nine audio recorded Thaci detention  
2 centre visits. Just a word about those recordings.

3           As noted in publicly available filings, and as I've said  
4 already, the audio recordings were obtained pursuant to judicial  
5 order. The recording authorisations were limited to just a few  
6 months of Thaci's detention and were subject to judicial oversight.

7           That Mr. Thaci is the man targeting witnesses and revealing  
8 their protected information on those recordings is unmistakable and  
9 irrefutable. He is clearly identifiable not just by his voice, which  
10 was captured across hours of recordings, but by the content of what  
11 he says, including numerous facts specific to him. His is also the  
12 same voice heard consistently during each of the recorded jail calls  
13 in evidence, all of which were maintained by the Registry pursuant to  
14 KSC regulation.

15           Mr. Thaci is also identifiable by the common pattern of witness  
16 interference instructions he ordered and by the confidential witness  
17 information he revealed across multiple visits. It's the same  
18 content: instructions and information that then matches facts  
19 collected outside of the visit rooms.

20           That the co-accused here are the people Thaci is talking to on  
21 the visit recordings is also unmistakable. The fact that each of  
22 these men visited Thaci on the day of the recording is documented by  
23 multiple Registry records, including detention centre logs showing  
24 their physical presence at the detention centre on the relevant date  
25 and their own signed visitor applications. And then in the audio

1 recordings themselves, Thaci addresses the men by name, and they all  
2 reveal facts about themselves that are easily matched to external  
3 evidence, including their own phone records.

4 Now, parts of the recordings are more difficult to hear than  
5 others. Your Honour will hear this for himself. This was by design.  
6 It was intentional. Thaci and his co-accused knew. They knew from  
7 the KSC regulations they all received, and they knew from just  
8 physically being there, that everything said during these visits was  
9 supposed to be audible to a detention centre officer outside the  
10 visit room.

11 At times, when it did not get in the way of their scheming,  
12 Thaci and his co-accused complied with the rules. Indeed, they often  
13 spoke in normal voices and normal volume, usually to talk about  
14 politics, or give updates on family life, or share opinions about how  
15 Thaci's legal team was performing in Case 06.

16 But then, when it mattered most, when he wanted to talk about  
17 the work of interfering with witnesses, when he wanted to provide his  
18 detailed instructions for his visitors to carry out, Thaci shifted  
19 gears. He dropped his voice to a whisper, and his co-accused  
20 followed his lead.

21 You can hear this throughout the admitted recordings in this  
22 case. It was not an accident. It was the point. This is clear even  
23 from this brief audio excerpt from the July Fazliu visit which we  
24 will play now. The recording and the transcripts for this excerpt  
25 are admitted SPO Exhibits P105\_ET and \_AT.



1 confirm Mr. Fazliu's visit on July 2nd. In addition to Thaci and  
2 Fazliu actually naming Remi when they start discussing him, KSC Court  
3 records disclosed to Thaci in Case 06 contain multiple identifying  
4 factors that prove Thaci was, indeed, targeting Rrustem Mustafa for  
5 interference on July 2nd. Those records are judicially noticed.  
6 Text messages and other seized phone records show that the details of  
7 what Thaci and Fazliu discussed, planned, and agreed during their  
8 recorded July meeting inside the detention centre is exactly what  
9 happened in the world outside.

10 For example, Fazliu reported to Thaci that he had already met  
11 with Mustafa at the Route 66 diner on the Thursday immediately before  
12 Fazliu left Kosovo to visit Mr. Thaci. That was right here in the  
13 excerpt we just played.

14 Text messages seized from Mr. Mustafa's cell phone confirm this.  
15 First, you see here in SPO exhibit bearing SPOE398224 that on  
16 June 26th, 2023, Fahri Fazliu first contacted Mustafa on his father  
17 Fadil's behalf and tried to set up a meeting. As the messages show,  
18 the meeting didn't happen on the 26th because Mustafa was out of  
19 town.

20 Mr. Mustafa's text messages then show that three days later, on  
21 Thursday, like they said, on June 29th, Fahri succeeded in setting up  
22 the meeting with Mustafa at Route 66 in Prishtine, just as  
23 Fadil Fazliu reported to Thaci during their July visit.

24 And, Your Honour, I'd ask your indulgence to continue just two  
25 minutes over and I can finish this section. Thank you.

1           Fazliu also told Thaci that he and Mustafa had agreed to meet  
2           again after Fazliu returned from The Hague, with Fazliu ready and  
3           willing to transmit any messages for Mustafa from the detention  
4           centre. Fazliu also told Thaci he would use his own son Fahri to set  
5           up this next meeting with Mustafa, and that Fazliu would fly home  
6           from the Hague to have this meeting with Mustafa the very next day,  
7           July 3rd.

8           Thaci and Fazliu discussed each of these concrete plans in the  
9           excerpt we just listened to as seen here. And then here, where  
10          Fazliu confirmed he would travel back to Kosovo the next day to meet  
11          with Mustafa. And then here, where Fazliu confirmed he would meet  
12          with Mustafa as soon as he was back. And then here, where Fazliu  
13          confirmed again he would use his son Fahri to set up the meeting with  
14          Mustafa.

15          Again, Your Honour, the evidence collected from outside the  
16          detention centre matches.

17          First, Fazliu's phone records, seen here at SPO Exhibit P120,  
18          show that Fazliu indeed returned to Kosovo on July 3rd, just as he  
19          promised Thaci he would.

20          Second, text messages seized from Rrustem Mustafa's phone, seen  
21          here, show that just hours - hours - after Fazliu landed back in  
22          Kosovo on July 3rd, this time armed with Thaci's detailed  
23          interference instructions, he had his son Fahri arrange another  
24          meeting with Mustafa.

25          There is nothing wrong, by the way, the evidence will show, with

1 Fadil's phone. He knows how to use a phone.

2 Finally, travel records show that on Tuesday, July 4th, just one  
3 day after he met the Fazlius, Mustafa flew to The Hague to prepare  
4 for his testimony, exactly as Thaci and Fazliu had discussed.

5 Your Honour, this is how the evidence in this case works.  
6 Thaci's and his co-accused's attempts to hide and conceal their  
7 conduct failed. They failed because the evidence collected from  
8 outside the walls of the detention centre and its visit rooms  
9 consistently reinforces and corroborates what Thaci and his  
10 co-accused planned, whispered, and agreed inside the visit rooms.

11 And, Your Honour, I have a little bit left, but I think now  
12 would be a good time to take a break.

13 JUDGE GOSNELL: Thank you, Mr. Hafetz.

14 We'll take a break until 12.00 noon sharp, please.

15 --- Recess taken at 11.32 a.m.

16 --- On resuming at 12.00 p.m.

17 JUDGE GOSNELL: Just a brief scheduling note before we commence.  
18 The Registry has very kindly facilitated shortening the lunch hour.  
19 So we will take the lunch from 1.30 to 2.30, and then recommence  
20 then, and finish at 4.00 p.m.

21 Mr. Hafetz, you have the floor.

22 MR. HAFETZ: Thank you, Your Honour.

23 Let's take another example of how the evidence works in this  
24 case.

25 I spoke a few minutes ago about the Kilaj Group visit on October

1 6th, 2023. In that visit, Mr. Thaci targeted Witness 4 for  
2 interference and used the witness's prior statements as an  
3 instruction manual to tell Mr. Kilaj and Mr. Kryeziu exactly what  
4 needed to be done, including precisely which part of Witness 4's  
5 testimony needed to change and how.

6 The recording of this visit shows exactly how Thaci and his  
7 co-accused operated. At the beginning of the visit, Thaci, Kilaj,  
8 and Kryeziu speak at full volume, they speak normally, to exchange  
9 greetings and discuss everyday life. You can hear an example of that  
10 in this very brief clip from the start of the visit, which is found  
11 at SPO P109\_ET and \_AT, already admitted.

12 We'll now play the clip in full. It's about 20 seconds long.

13 [Audio-clip played]

14 MR. HAFETZ: What you just heard is what happens when Thaci and  
15 his visitors have no reason to hide what they're saying, regular  
16 tones to discuss regular life, and name each other, by the way.

17 But later in the visit, when the time came to focus on  
18 interfering with Witness 4, Thaci and his visitors' voices changed  
19 and the whispering began.

20 The next three-minute clip from the visit demonstrates this.  
21 We're going to play the clip now and pause at 25 seconds in.

22 [Audio-clip played]

23 MR. HAFETZ: Despite the whispering, and despite the insistence  
24 on not naming the person they're talking about, the evidence will  
25 show that the men are discussing Witness 4, a protected and

1 confidential witness in Case 06. And in particular, they're  
2 discussing a specific part of the witness's anticipated testimony  
3 that Thaci wanted to influence.

4 We'll now continue playing the clip until 52 seconds in.

5 [Audio-clip played]

6 MR. HAFETZ: Here, Mr. Thaci is describing the established  
7 Case 06 procedure of witnesses travelling to The Hague and reviewing  
8 their prior statements shortly before their testimony. Mr. Kilaj  
9 offered to take the confidential Witness 4 statements that Thaci is  
10 talking about and referring to and bring them to Witness 4 to convey  
11 Thaci's instructions.

12 But Mr. Thaci knows better. As he explained to Kilaj, there was  
13 no need for Kilaj to take all of the pages of Witness 4's prior  
14 statements from the detention centre because the SPO will give the  
15 witness his full statements to review when he comes. Thaci then  
16 explains that he has a more specific plan and instructions in mind.

17 And we'll now play the clip until 1 minute and 27 seconds.

18 [Audio-clip played]

19 MR. HAFETZ: Even in his whispered voice, Thaci's command is  
20 clear: Witness 4 has to "correct," which means change to Thaci's  
21 advantage, his prior evidence, specifically Part 6, page 7 of his  
22 confidential SPO interview. And the witness needed to make that  
23 change here in The Hague in his SPO witness preparation session,  
24 before he entered the courtroom to take the witness stand. Thaci  
25 ordered that this is the page and the part that his visitors needed

1 to take with them to get the job done.

2 And then to make sure there was no doubt about his orders, no  
3 room for mistake, Thaci made his instructions even more explicit.

4 We'll play the clip until 2 minutes and 7.

5 [Audio-clip played]

6 MR. HAFETZ: Part 6, page 7, down to the specific line.

7 Your Honour is the ultimate fact-finder, but you can hear  
8 clearly the sound of paper on the recording. Witness 4 must be told  
9 to make this part of his prior evidence better, better for Mr. Thaci.

10 And in the final portion of the excerpt, Thaci drove home his  
11 command.

12 We'll now play the clip until the end.

13 [Audio-clip played]

14 MR. HAFETZ: Thaci even predicts what the Judges are going to  
15 ask the witness.

16 Now, the last part of this recording excerpt is unquestionably  
17 more difficult to hear because of Thaci's very low whispering. But  
18 the effort to cover up what he was saying still failed, and that is  
19 because the evidence will show that the specific parts of Witness 4's  
20 prior statements that Thaci repeatedly targeted - Part 6, page 7 -  
21 were the exact parts where the witness was asked about Thaci's  
22 involvement in his alleged mistreatment by KLA members. In other  
23 words, what Thaci wanted at Part 6, page 7, was to eliminate evidence  
24 of Thaci's personal involvement in the witness's alleged  
25 mistreatment.

1 And, again, it is evidence collected outside the detention  
2 centre that proves this beyond a reasonable doubt.

3 On November 2nd, 2023, less than one month after Kilaj's and  
4 Kryeziu's visit to Thaci, the SPO conducted a judicially authorised  
5 search of Mr. Kilaj's residence. During that search, the SPO seized  
6 torn up pieces of paper from inside a trash bag by Kilaj's front  
7 door. You see that bag here, SPO Exhibit P123, as it was found,  
8 stuffed with torn pieces of paper.

9 Forensic experts reconstructed those torn pieces of paper, and  
10 the results show that Kilaj had torn up and trashed not random pieces  
11 of paper but the two confidential prior statements of Witness 4.

12 One of those torn pages is seen right here at SPO Exhibit P3.  
13 This, Your Honour, is Part 6, page 7 of Witness 4's prior statement  
14 to the SPO. It's blurred here in court because it remains  
15 confidential. The full version of Witness 4's SPO statement was  
16 disclosed to Mr. Thaci in Case 06 before the Kilaj Group visit. He  
17 had it. And the part of the document as seized from Kilaj matches  
18 exactly the same part and the same page number that he ordered must  
19 change during that October visit.

20 The torn-up document seized from Kilaj even has highlighting and  
21 handwriting on the precise parts of the page that Thaci repeatedly  
22 demanded that the witness had to change before testifying. This  
23 includes, Your Honour, a hand-drawn box around the questions and  
24 answers starting at line 9 of Part 6, page 7. That's the part about  
25 the witness's prior identification of Mr. Thaci.

1           And that is not all, because the SPO also received, by judicial  
2           order, records from the detention centre computer and printer used by  
3           Mr. Thaci. All of these items were reviewed by an independent  
4           counsel before being provided to the SPO. None of these records has  
5           any legal privilege. And what this evidence shows is that Thaci  
6           printed this same confidential part of Witness 4's statement just two  
7           days before he used it during his visit with Mr. Kilaj and  
8           Mr. Kryeziu. You see this before you in Exhibit P128.

9           The evidence will also show that Thaci printed several other  
10          Witness 4-related documents shortly before the 6 October visit with  
11          Kilaj and Kryeziu, including another document found torn up in  
12          Kilaj's trash. The computer records for those documents are here at  
13          SPO P133.

14          In other words, Your Honour, the evidence comes together in this  
15          case to show that even Thaci's faint whispering on the audio  
16          recordings is backed up and corroborated by overwhelming physical and  
17          electronic evidence. And what all of this evidence shows is the  
18          organisation, the planning, and the concrete steps the accused took  
19          in their attempts to obstruct the proceedings and interfere with  
20          witness testimony for Mr. Thaci's benefit.

21          I'm going to take one more example to illustrate how this works.

22          As pled in the indictment, the Smakaj Group charges in this case  
23          arise from two visits, one in September and one in October 2023.  
24          During both visits, Thaci repeatedly targeted Bislim Zyrapi for  
25          interference. We talked about that a moment ago. This included

1 Thaci's lengthy recitation of specific points for Mr. Zyrapi to make  
2 in order to minimise Thaci's role and accountability. This included  
3 that the General Staff was made of only six individuals until  
4 November 1998, excluding Mr. Thaci; that Thaci went abroad between  
5 November 1998 and March 1999; and that, generally, the focus should  
6 be on the zone commanders and Adem Demaci.

7 During the 7 October visit, Thaci and his visitors used an  
8 additional tactic on top of his usual whispering to conceal their  
9 discussion of witness instructions. This time, just before he  
10 started whispering to Smakaj about Zyrapi, Thaci told Artan Behrami  
11 to "speak louder" in order to cover up Thaci's whispering. Thaci  
12 then began whispering to Mr. Smakaj about Bislum Zyrapi. Smakaj  
13 reported to Thaci that he had already been in contact with Zyrapi,  
14 and that Zyrapi sent "greetings." That is all here in this brief  
15 clip from SPO P110.

16 The clip is about one minute long, and we'll play it now.

17 [Audio-clip played]

18 MR. HAFETZ: Here again, the evidence collected outside the  
19 detention centre matches what was whispered inside it. Specifically,  
20 SPO exhibit bearing ERN 125731, seen here, contains records seized  
21 from Mr. Smakaj's mobile phone. And the records show that on the  
22 2nd and 3rd October 2023, Smakaj and Zyrapi were in contact, just as  
23 Smakaj reported to Thaci a few days later.

24 And in this next brief excerpt from the 7 October visit, just as  
25 Thaci did during the Kilaj Group visit, he used documents to make

1 sure his interference instructions were followed.

2 We'll now play the final short clip that I'm going to play  
3 today, which is again from SPO Exhibit P110.

4 [Audio-clip played]

5 MR. HAFETZ: Now, just three weeks after Smakaj and Thaci  
6 discussed exchanging papers, with Thaci telling him, "You keep these  
7 ones," one of the documents the men were discussing when targeting  
8 Bislim Zyrapi for interference was found. The document was seized  
9 from Mr. Smakaj's car.

10 The first two pages of the document are seen here at SPO  
11 Exhibit P125. That's admitted.

12 The document has highlighting and annotations, both added by  
13 hand. It contains a narrative diminishing the level of KLA  
14 organisation and Thaci's leadership role in the KLA, while shifting  
15 responsibility to other actors to minimise and eliminate Mr. Thaci's  
16 culpability for the crimes charged in Case 06. The narrative seized  
17 from Smakaj's car was intended to influence the anticipated testimony  
18 of several KLA insider witnesses targeted across recorded visits,  
19 including Bislim Zyrapi.

20 This is clear, Your Honour, from, among other things, the  
21 multiple handwritten "B"s before parts of the narrative that relate  
22 specifically to Mr. Zyrapi's anticipated testimony.

23 It's also clear from the fact that several of the parts of the  
24 document match Thaci's oral instructions for "Bisa," meaning  
25 Bislim Zyrapi, during the recorded 7 October visit. You can see

1 this, for example, by comparing the transcript of that visit with the  
2 text of the seized Smakaj document, as seen here at SPO  
3 Exhibits P110\_AT and \_ET, and SPO Exhibit P125.

4 Just this one page of the Smakaj document excerpted here  
5 contains multiple matches with Thaci's October 7 instructions to  
6 Smakaj on how Mr. Zyrapi should testify, including that the  
7 General Staff was composed of only six people - three members in  
8 Kosovo, including two literature students, and three members who were  
9 abroad.

10 There are multiple other matches in evidence, several of them  
11 verbatim.

12 The evidence will also show that that same seized Smakaj  
13 document, minus the handwriting and highlighting, was found on  
14 Mr. Thaci's detention centre computer under the file name  
15 "*per avokatet*," meaning "for lawyers." The same file containing that  
16 Smakaj document was printed at the detention centre just hours before  
17 Smakaj and Behrami visited Thaci on 7 October. You see the printing  
18 record here, which is from SPO Exhibit P128.

19 And to be clear, Mr. Smakaj is not - and has never been - a  
20 Case 06 lawyer or Defence team member for Mr. Thaci.

21 Together, this evidence shows that Thaci was organised and  
22 prepared for the 7 October visit so that he could get and target  
23 Mr. Zyrapi's testimony in line with what he wanted with the Smakaj  
24 Group.

25 And, finally, the evidence will also show that the printer used

1 to print that Smakaj document seized from Mr. Smakaj's car was the  
2 same printer used to print the confidential statements that Thaci  
3 used to target Witness 4 on October 6, the same Witness 4 statements  
4 seized from Mr. Kilaj's trash after Mr. Kilaj tore them into pieces,  
5 from Exhibit P128.

6 The evidence in this case, Your Honour, is overwhelming, and it  
7 is mutually reinforcing. It fits together because, as charged,  
8 Mr. Thaci was the leader and organiser of a persistent series of  
9 attempts to obstruct and interfere with his trial in Case 06.

10 And together, the evidence will prove that Mr. Thaci, Mr. Kilaj,  
11 Mr. Smakaj, Mr. Fazliu, and Mr. Kuci are each guilty beyond any  
12 reasonable doubt of the offences charged against them.

13 My colleagues Mr. Hicks and Ms. O'Connell will now briefly  
14 address Your Honour on the applicable law.

15 Thank you.

16 MR. HICKS: Good afternoon again, Your Honour, colleagues in the  
17 courtroom.

18 You've now heard about the general backdrop of KSC proceedings,  
19 particularly why the rule of law must be vigorously upheld in the  
20 face of pervasive witness interference. Further, you heard what this  
21 case is about; that is, how Mr. Thaci chose people close to him to  
22 attempt to interfere with Case 06 witnesses for one reason: to help  
23 him avoid conviction in that case. And you've seen and heard a  
24 summary of just some of the overlapping and reinforcing evidence,  
25 including the accused's own words inside the detention centre, and

1 the corroborating evidence collected outside of it.

2 In this last section of our opening statement, Ms. O'Connell and  
3 I will briefly outline the crimes charged in the indictment. The  
4 offences and related modes of liability are specifically tailored to  
5 the individual actions and circumstances of each of the accused.  
6 Nonetheless, all charges fall under three categories of offences:  
7 Firstly, attempted obstruction of official persons in performing  
8 official duties; secondly, violation of the secrecy of proceedings;  
9 thirdly, contempt of court.

10 Four of the accused - Thaci, Smakaj, Kilaj, and Fazliu - have  
11 been charged with attempted obstruction. Thaci is the only accused  
12 who is also charged with violating the secrecy of proceedings.  
13 Finally, all five of the accused have been charged with contempt of  
14 court.

15 I will start with attempted obstruction. This offence arises  
16 from Article 401(2) of the Kosovo Criminal Code, which holds that  
17 anyone participating in a group of persons which, by common action,  
18 obstructs or attempts to obstruct an official person in performing  
19 official duties shall be punished. In this case, the foundation of  
20 the attempted obstruction charges under Article 401(2) arise from  
21 three distinct groups.

22 As has already been described, the Fazliu Group, including Thaci  
23 as the leader, Fazliu, and his son Fahri; the Smakaj Group, including  
24 Thaci as the leader, Smakaj, Blerim Shala, and Artan Behrami; lastly,  
25 the Kilaj Group, again including Thaci as the leader, Kilaj, and

1 Vllaznim Kryeziu.

2 Each group carries one charge per accused as they all undertook  
3 common action focused on obstructing Case 06 by attempting to  
4 interfere with SPO witness testimony.

5 There are two further provisions under Article 401 relevant to  
6 the charges in this case. Those are subparagraphs (3) and (5).  
7 These two provisions are focused on aspects which enhance or  
8 aggravate the attempted obstruction of a charged person.

9 Specifically, Article 401(3) states that a leader or organiser  
10 of a group who commits attempted obstruction shall be punishable by  
11 imprisonment of one to five years. This provision applies to Thaci,  
12 and he is charged with one count for each of the three groups he  
13 participated in and led.

14 Additionally, and per Article 401(5), when attempted obstruction  
15 is committed against a judge, a prosecutor, an official of a court,  
16 prosecution officer, or a person authorised by the court and  
17 prosecution office, during the exercise of their official functions,  
18 the perpetrator shall be punished by imprisonment of one to five  
19 years.

20 This aggravating factor applies to each of the charged members  
21 of the three groups - Thaci, Smakaj, Kilaj, and Fazliu - because  
22 their actions were intended to compromise the KSC and the SPO's  
23 ability to effectively investigate and prosecute crimes, particularly  
24 securing relevant and truthful witness evidence.

25 The bottom line as to these respective charges, all of which

1 include an enhanced sentencing component, is that a conviction on any  
2 one count for any of these four accused carries a minimum sentence of  
3 one year and a maximum sentence of five years.

4 That the actions of the three charged groups attempted to  
5 obstruct an official person in performing official duties is plain.  
6 As affirmed in the pre-trial Confirmation Decision in this case,  
7 attempts to unlawfully influence the testimony of SPO witnesses could  
8 result in compromised evidence that may no longer be used at trial,  
9 they may lead to the impeachment of witnesses, and they may affect  
10 the integrity of KSC proceedings. All of these outcomes obstruct the  
11 work of SPO staff, including investigators and Prosecutors, as well  
12 as KSC Judges.

13 The steps taken by the group members, which are established by  
14 the evidence in this case, were substantial, they were concrete, and  
15 they were specific.

16 They do not need to have actually succeeded in contacting and  
17 influencing the witnesses. That's not what the accused are charged  
18 with here. What they are charged with is attempt, and those efforts  
19 are criminal. That is the law which seeks to safeguard the effective  
20 functioning of the legal system by way of the unimpeded performance  
21 of official duties from attempts to undermine the course of justice.  
22 In short, Article 401(2) explicitly criminalises --

23 THE INTERPRETER: The interpreters kindly ask the speaker to  
24 slow down, please.

25 MR. HICKS: -- an attempt to obstruct in the same manner as

1 obstruction which is fully realised because this is precisely what  
2 was intended when the law was written.

3 Nonetheless, it is important to highlight that there were  
4 contacts between some group members and targeted witnesses, both  
5 before and after the charged visits. The reasonable inference, which  
6 is not necessary to establish guilt for attempted obstruction, is  
7 that these contacts were, in fact, intended to implement the common  
8 plan. My colleague has already given you examples of these.

9 The totality of the evidence shows that the members of the  
10 Fazliu, Smakaj, and Kilaj Groups - all led by Thaci - intentionally  
11 participated in a group focused on the attempted obstruction of  
12 targeted Case 06 witnesses. Indeed, there can be no doubt that the  
13 accused knew what they were doing, and they knew it was a crime. For  
14 example, look to the explicit caution that Thaci delivered to Fazliu  
15 to use an intermediary to contact Rustem Mustafa and Fazliu's  
16 compliance with that direction. Look to the 6 October visit, when  
17 Thaci advised Kilaj and Kryeziu that, if not careful, "they will  
18 bring you in here with me." With Kilaj responding, "It does not  
19 matter, I can stay for a couple of years, just a couple of years."  
20 Look to the 7 October visit, when Behrami read detention regulations,  
21 out loud, and in Smakaj's presence, establishing that visitors are  
22 not allowed to exchange items with the detainees while they waited  
23 for Thaci to arrive.

24 Ultimately, the group members all undertook acts which  
25 contributed to the goal of impeding and hindering KSC and SPO

1 officials in proceedings before this Court. The legal requirements  
2 for the charges of attempted obstruction are fulfilled for Thaci,  
3 Fazliu, Smakaj, and Kilaj.

4 This concludes this section on attempted obstruction, and  
5 Ms. O'Connell will now address you on the remaining charges.

6 MS. O'CONNELL: Good afternoon, Your Honour, and colleagues in  
7 the courtroom. I am Claire O'Connell on behalf of the SPO.

8 Moving on to the offence of violating the secrecy of  
9 proceedings, pursuant to Articles 392(1) and 392(2) of the KCC. Only  
10 Thaci is charged with this offence in Counts 4, 5, 6, and 7 of the  
11 indictment.

12 Under Article 392(1) of the KCC, someone who, without  
13 authorisation, provides information disclosed in any official  
14 proceeding which must not be revealed according to law or was  
15 declared secret by the court or a competent authority shall be  
16 punished. Alternatively, 392(2) of the KCC provides that a person  
17 who, without authorisation, reveals information on the identity or  
18 personal data of a protected person under protection in criminal  
19 proceedings shall be punished. The unlawful revelation of  
20 information may include displaying or distributing material, in  
21 original or copied form, citing, describing, or referring to content  
22 of the material, and making the material available to others so as to  
23 allow them to read or copy the material or its contents.

24 The four counts of violation of secrecy of proceedings that  
25 Thaci is charged with arise from the disclosure of confidential

1 information and the identity and personal data of a protected person,  
2 which must not be revealed and which was not authorised, to group  
3 members during the 2nd July, 9th September, 6th October, and  
4 7th October group visits.

5 This information revealed by Thaci during the group visits was  
6 classified as confidential in KSC filings. Such filings include the  
7 SPO witness lists in Case 06 and protective measures decisions issued  
8 by the Case 06 Trial Panel. Additionally, Thaci received and  
9 wrongfully revealed the contents of confidential evidence as  
10 disclosed by the SPO during the group visits.

11 As has already been discussed earlier today, confidential  
12 information that was revealed by Thaci included the names and  
13 anticipated testimony of witnesses in Case 06, the timing of their  
14 appearance in court, details of evidence provided in private session  
15 for the KSC, personal biographical information of witnesses which  
16 were not public, and more.

17 Thaci was not authorised by the SPO or the KSC legal framework  
18 to reveal any secret information to his visitors, full stop. That  
19 Thaci did so with the aim of obstructing witness testimony in Case 06  
20 to minimise his criminal responsibility in that proceeding serves as  
21 an aggravating factor. The violations of secrecy of the Case 06  
22 proceedings were not accidental or inadvertent slips of the tongue.  
23 Rather, Thaci's revelations were repeated and intentional, and in  
24 full knowledge of the illegality of his actions.

25 As a party to the Case 06 proceedings, Thaci was well aware of

1 the obligation incumbent upon him, or to treat confidential material  
2 and the status of protected witnesses with due care and restraint.  
3 Thaci was reminded of that obligation not only through the filings  
4 and classification of evidence he received, but also, for example, at  
5 the start of the SPO's evidence in Case 06 on 11 April 2023, when the  
6 Presiding Judge underscored this obligation and stated as follows:

7 "The Panel reminds the parties and the participants of their  
8 duty to observe, at all times throughout the presentation of  
9 evidence, all protective measures in place."

10 He continued:

11 "In addition, the Panel notes that the list of SPO witnesses is  
12 currently classified as confidential. Therefore, the fact that an  
13 individual is a prospective SPO witness is confidential, even when  
14 such an individual is not a protected witness."

15 And yet, despite this clear legal framework prohibiting the  
16 revelation of confidential information, Thaci repeatedly and  
17 intentionally violated the secrecy of the Case 06 proceedings.  
18 Thaci's conduct thus fulfils the legal requirements for the three  
19 counts charged under Article 392(1) of the KCC, and for one count  
20 charged under 392(2).

21 Finally, contempt of court.

22 All five of the accused are charged with contempt of court:  
23 Thaci under Counts 8 to 11; Smakaj under Count 13; Kilaj under  
24 Count 15; Fazliu under Count 17; and Kuci under Counts 18 to 19.

25 Article 393 of the KCC provides that whoever fails to obey any

1 final order, ruling, decision, or judgment of a court shall be  
2 punished.

3 For Thaci and Kuci, the contempt charges in this case arise  
4 primarily from the Case 06 Protocol, which is a decision issued by  
5 the Case 06 Trial Panel concerning the handling of confidential  
6 information by parties and participants in that case. At all  
7 relevant times, Thaci was an accused in Case 06 while Kuci was a  
8 member of the Veseli Defence team. Notably, this protocol applied to  
9 all contacts with the witnesses of an opposing party, including after  
10 their testimony. As the protocol was upheld on appeal, it was  
11 unquestionably a final decision. Relevant to the contempt charges,  
12 the Case 06 Protocol prohibited a party or participant in Case 06  
13 from: providing confidential information to third parties, unless  
14 strictly necessary and subject to strict conditions; revealing to  
15 third parties the involvement of any protected witness with the KSC  
16 or SPO; and contacting the opposing party's witnesses outside of the  
17 framework implemented therein.

18 As to Thaci, he committed contempt of court as charged in  
19 Counts 8, 10, and 11 by violating the Case 06 Protocol. He did so by  
20 tasking his co-accused with contacting witnesses outside of the  
21 protocol, and by repeatedly revealing confidential information about  
22 witnesses to his visitors during the 2nd July, 9th September,  
23 6th October, and 7th October visits. This pattern of disobeying the  
24 Case 06 Protocol was not necessary for the presentation and  
25 preparation of Thaci's case. Rather, the contempt of court was part

1 of the accused's scheme to interfere with Case 06, including Thaci's  
2 clear and repeated instructions to group members to contact  
3 witnesses, using them as intermediaries to attempt obstruction.

4 Similarly, as charged in Count 9, Thaci agreed with Kuci to  
5 commit contempt when, at Thaci's direction, they agreed that Kuci  
6 should contact SPO witnesses outside of the Case 06 Protocol, and  
7 Kuci took substantial steps to implement that agreement.

8 As with all of the crimes charged, Thaci's intent is clear from  
9 both his actions and the manner in which he undertook those actions.  
10 Most notably, the pervasive use of whispering and hushed tones when  
11 he and others were discussing confidential information in direct  
12 violation of the Case 06 Protocol. Contemptuous intent is also  
13 evident in the effort to reach out to witnesses secretly, in clear  
14 violation of the Case 06 Protocol, with the hope of avoiding  
15 detection.

16 Simultaneously, and under Count 18, Kuci agreed with Thaci to  
17 commit contempt by way of their agreement to contact SPO witnesses  
18 outside of the Case 06 Protocol. This agreement includes substantial  
19 acts to implement, such as Kuci's initiative to immediately meet with  
20 at least one targeted witness upon his return to Kosovo following the  
21 3 September visit. Further, Kuci agreed to write down Thaci's  
22 instructions during their visit, provided his own suggestions on what  
23 targeted Case 06 witnesses should say, and even indicated that he had  
24 already spoken to one or more witnesses.

25 Again, as with all of the crimes charged, the efforts of Kuci

1 and Thaci to obscure their agreement to commit contempt by whispering  
2 during the 3 September visit further establishes that they knew their  
3 conduct was prohibited by the Case 06 Protocol.

4 Similarly, Kuci committed contempt of court due to his clear and  
5 intentional violation of the Case 06 Protocol, as charged in  
6 Count 19. More specifically, Kuci's direct contact with a Case 06  
7 witness on 12 April 2023, in violation of the Case 06 Protocol,  
8 results in the commission of contempt. This contact is clear and  
9 indisputable. Further, the fact that Kuci, a trained lawyer and, at  
10 the relevant time, Case 06 Defence team member, knew that this  
11 conduct was in violation of the Case 06 Protocol cannot reasonably be  
12 disputed.

13 Finally, we come to Counts 13, 15, and 17 of the indictment,  
14 which charge Smakaj, Kilaj, and Fazliu, respectively, with contempt  
15 of court. The mode of liability for these charges is assistance, in  
16 that these three accused provided assistance to Thaci in his  
17 commission of contempt. Specific to this notion, Article 33 of the  
18 KCC provides that assistance in committing a criminal offence  
19 includes creating conditions or removing impediments to the  
20 commission of a criminal offence.

21 Importantly, Smakaj, Kilaj, and Fazliu all signed a visitor  
22 undertaking in which they agreed not to disclose any information that  
23 could compromise the administration of justice or otherwise undermine  
24 the authority and mandate of the KSC. This fact establishes that  
25 they had a keen awareness of the type of conduct which is prohibited

1 at the KSC detention centre.

2 Consequently, and while Smakaj, Kilaj, and Fazliu were not  
3 parties or participants in Case 06, they unquestionably knew that  
4 they could not trade in confidential information about SPO witnesses.  
5 Indeed, their awareness that their conduct was unlawful is clear from  
6 their behaviour during the respective visits, particularly employing  
7 whispers and low voices when the discussion pertained to confidential  
8 Case 06 witnesses.

9 Another such example of such awareness is Kilaj's tearing up  
10 portions of confidential witness statements - material which was  
11 subject to and protected by the Case 06 Protocol - that he received  
12 from Thaci during the 6 October visit, in the hopes of avoiding  
13 detection. During his SPO interview, Kilaj admitted to having this  
14 material in his possession, lied about how he obtained it, and  
15 conceded that it was material he should not have in his possession as  
16 it was "not a matter or an issue that I should be looking into."

17 These are all clear indications of his intent to cover up his  
18 assistance of Thaci's contempt.

19 All of these factors establish that Smakaj, Kilaj, and Fazliu  
20 appreciated that they were prohibited from acting as an intermediary  
21 between Thaci and Case 06 witnesses. Broadly speaking, Smakaj,  
22 Kilaj, and Fazliu's active engagement during their respective visits  
23 to Thaci, including providing advice, offering feedback and moral  
24 support, agreeing to write down exactly what Thaci told them so that  
25 his interference instructions could be delivered clearly, and taking

1 possession of confidential documents, created conditions and removed  
2 impediments to Thaci's violation of the Case 06 Protocol and the  
3 related commission of contempt. Importantly, the person providing  
4 assistance need not intend the commission of contempt. They must  
5 simply provide assistance to the perpetrator knowingly and  
6 intentionally.

7 Consequently, the acts and conduct of Smakaj, Kilaj, and Fazliu  
8 in the respective visits enabled, encouraged, and facilitated Thaci's  
9 commission of contempt of court. They are therefore guilty of  
10 assisting the commission of this offence.

11 The SPO's evidence in this case is compelling and overwhelming,  
12 and reflects repeated efforts by the accused that are the textbook  
13 definition of obstruction. Ultimately, there are no valid defences  
14 to the criminal conduct of the accused. The evidence will show that  
15 the accused committed the crimes charged in the indictment  
16 repeatedly, knowingly, and intentionally.

17 After all the evidence is presented, we will return to  
18 Your Honour and ask that the accused be held responsible for their  
19 actions in accordance with the law.

20 Thank you for your attention, Your Honour. This concludes the  
21 SPO's opening statement.

22 JUDGE GOSNELL: Thank you, Ms. O'Connell.

23 Mr. Rees, I understand that there will be an opening statement  
24 on behalf of Mr. Smakaj.

25 MR. REES: Yes, there will, Your Honour.

1 JUDGE GOSNELL: Please proceed. Thank you.

2 MR. REES: At the outset of any criminal trial, there are a  
3 number of matters which are so important that they ought to be  
4 restated however learned the tribunal. And, indeed, some of them  
5 Your Honour has already restated this morning.

6 The first is that the burden of proving guilt falls upon the  
7 prosecution. The defendant does not have to prove his innocence.  
8 The prosecution only proves guilt by making the court sure of guilt  
9 beyond reasonable doubt on evidence presented by the prosecution  
10 after opening statements and during the trial itself, and only on the  
11 evidence presented by the prosecution at that stage.

12 It may be trite law, but it is nevertheless something that  
13 tribunals of fact all over the world are routinely and wisely  
14 reminded of, that what the prosecution advocate says during the  
15 opening speech, or, indeed, at any other stage in the case, is not  
16 itself evidence, and that is one of the matters that Your Honour has  
17 rightly reminded the Court.

18 The tribunal of fact, whether judge or jury, should be reminded  
19 that the trial process requires them to approach the evidence with an  
20 open mind, and to keep that open mind until they have heard all the  
21 evidence and listened to all speeches, both at opening and at  
22 closing, addressing the evidence.

23 Any assumptions or starting points that they might bring to the  
24 courtroom are to be left aside once the trial begins. The only  
25 presumption that is appropriate is the presumption of innocence, as

1 Article 21(3) of the Law on the Specialist Chambers reminds us. No  
2 suspect or accused is required to answer questions posed by the  
3 Prosecution during the course of any investigation. If questioned,  
4 he or she has the right to remain silent, without such silence being  
5 considered in the determination of guilt or innocence, as  
6 Article 38(3)(b) of the Law on the Specialist Chambers restates for  
7 us.

8 In the pre-trial stage, the law provides that no defendant  
9 before the Specialist Chambers is required to set out the general  
10 nature of his defence, or the charges and matters the Prosecution  
11 allege which the accused disputes and why.

12 The defendant is entitled, as Your Honour reminded each  
13 defendant this morning, to remain silent during the course of the  
14 trial itself. No defendant is required to testify without such  
15 silence being a consideration in the determination of guilt or  
16 innocence.

17 These are all fundamentals that should be restated.

18 In the present case, Mr. Smakaj was not interviewed by the SPO  
19 about this investigation before he was charged. But he has chosen to  
20 set out the general nature of his defence on the charge and matters  
21 the Prosecution allege, which he disputes and the reasons why he  
22 does, in a pre-trial brief dated 19 October 2025.

23 He has rightly challenged parts of the transcription and  
24 translation of audio recordings in relation to the two specific dates  
25 which concern him. I say "rightly" because, as the SPO knows, that

1       whereas it had prepared this case up until this week and has just  
2       presented to the Court and to the public a transcript suggesting that  
3       Mr. Thaci had been asked on 7 October if papers could be taken from a  
4       visit, in fact, that was an error of interpretation by the SPO that  
5       the Language Services Unit of this Court has confirmed was an error,  
6       and that, in fact, the speaker asked if he could bring papers in the  
7       future.

8             Any assumption that the SPO must be right would be not only  
9       inappropriate, improper, and unjust, but also downright misleading.

10            Mr. Smakaj has given the Prosecution -- chosen to give the  
11       Prosecution advance notice of his case at this trial, that, although  
12       he was friendly with Bislrim Zyrapi and met him regularly, that he had  
13       no discussion with Mr. Zyrapi about his testimony in Case 06, and he  
14       showed him no document about it. And you will hear evidence during  
15       the course of the trial that Bislrim Zyrapi has been spoken to by the  
16       SPO and, under affirmation to tell the truth, has confirmed that, as  
17       Mr. Smakaj says, they were friendly, they did meet. But he had never  
18       been approached and discussed his evidence with Mr. Smakaj, he had  
19       not discussed issues related to his testimony with Mr. Smakaj, or  
20       indeed anybody else, and Mr. Smakaj had never offered to show him a  
21       document, and he never has shown him a document.

22            Mr. Smakaj chose to give the Prosecution advance notice of his  
23       case at this trial in his pre-trial brief, which he did not have to  
24       provide, asserting, for example, that he was not aware of any witness  
25       protocol from Case 06, or confidentiality order from Case 06, or

1 Court order protecting the identity of witnesses from Case 06, or  
2 protective measures decisions from Case 06, or whatever type of name  
3 given to orders made in Case 06 that the Prosecution relies upon, and  
4 therefore that he could not be aware and was not aware of any  
5 disobedience to those orders, if they occurred, if that occurred in  
6 his presence. And yet, no notice is given by the SPO that they  
7 intend to adduce any evidence during this trial that he was aware of  
8 those orders. You will not hear any evidence that he was aware of  
9 such witness protocols or confidentiality orders from Case 06.

10 Mr. Smakaj chose to give the Prosecution advance notice of his  
11 case at this trial in his pre-trial brief, which he did not have to  
12 provide, asserting, for example, that he had never seen the document  
13 presumptively labelled by the Prosecution as the "Smakaj document"  
14 before. A Smakaj document, the so-called Smakaj document, which I  
15 note today the SPO showed publicly, without redactions, and therefore  
16 one can assume does not contain any confidential material. But  
17 Mr. Smakaj gives notice -- has given notice that his case at this  
18 trial is that he has never seen that document before. And yet, there  
19 is no notice given by the SPO that they intend to adduce any evidence  
20 during this trial from a witness setting out where, when, and how the  
21 Prosecution first came into possession of it.

22 You will not hear, Your Honour, evidence that that document was  
23 seized by the SPO from Mr. Smakaj's car. You will be simply shown a  
24 picture of a similar-looking document in a car attributed to  
25 Mr. Smakaj with no further contextual evidence in relation to it.

1           Mr. Smakaj chose to give the Prosecution advance notice that his  
2 case at this trial, through his pre-trial brief, a document which he  
3 did not have to provide, would involve drawing attention to the  
4 absence of any fingerprint or DNA analysis in relation to the  
5 so-called Smakaj document, as they presumptively name it.

6           And, indeed, Your Honour, you will hear agreed evidence that on  
7 6 December 2023, the SPO informed the body -- the forensic body  
8 handling any forensic work in this case that no fingerprint  
9 examination or DNA examination work was requested in relation to the  
10 so-called Smakaj document.

11           And you will hear that the SPO, even though Mr. Smakaj has given  
12 the Prosecution -- chose to give the Prosecution advance notice of  
13 his case at trial, that he'd never seen that document before, the  
14 SPO, you will hear, has made no subsequent request for fingerprint or  
15 DNA examination relating to that document since they gave  
16 instructions that no such examination was to take place.

17           So from near enough the outset of this investigation, the SPO  
18 made clear that no fingerprint or DNA work was to be done in relation  
19 to the document that they want the Court - Your Honour - to attribute  
20 to Mr. Smakaj, and yet, they have not sought any such work, even  
21 after Mr. Smakaj gave notice that he was asserting at this trial that  
22 he never seen the document. Why?

23           Any assumption that the SPO can only have come into possession  
24 of the so-called Smakaj document in the way that the Prosecution  
25 advocates have suggested, claimed this morning, would not only be

1 inappropriate, improper, and unjust, but it would also be downright  
2 misleading.

3 If, indeed, the SPO can establish that the origin of that  
4 document was an electronic file from within the detention unit, a  
5 matter which Mr. Smakaj has no knowledge of one way or the other, the  
6 evidence will show that any such electronic file could not be turned  
7 into a printed document without it passing into the hands of a  
8 detention officer.

9 I make no bones about it, Your Honour. The Defence case is that  
10 an alternative explanation - and it may not be the only one - as to  
11 how that document ended up in the hands of the SPO is that it reached  
12 them through a detention officer, and that if it was ever in the car  
13 belonging to Mr. Smakaj, it was put there by the SPO solely to  
14 attribute it to him. That such alternative explanations would form  
15 part of the trial was made clear in the pre-trial brief, which  
16 Mr. Smakaj chose to serve, giving notice -- he did not have to, but  
17 giving the SPO advance notice that he was asserting that he had never  
18 seen that document before. And yet, no notice is given by the SPO,  
19 you will not hear evidence from any detention officer or search  
20 officer to deal with this aspect of the trial.

21 You will not hear, despite what was just asserted to you, any  
22 evidence from the Prosecution identifying who printed the document,  
23 the file described as "*per avokatet*." The evidence that you will  
24 receive in the form of P00128, as what Your Honour was led to  
25 anticipate, is that -- only that an account using the anonymous

1 title, a DU guest account, was used. You will also hear that the  
2 user account used to print documents was shared by both detainee and  
3 detention officer alike. You will not hear evidence identifying who  
4 printed the file "per avokatet," if indeed that document has any  
5 relevance in this case.

6 Instead of dealing with matters evidentially, as is the SPO's  
7 burden, the SPO instead, rather self-confidently, intends, it is  
8 clear, to simply ask this word to take the Court -- sorry, I'll start  
9 again. To simply ask this Court to take the word of Prosecution  
10 counsel. It intends to ignore the requirement for the Prosecution to  
11 prove its case based on the evidence presented after opening  
12 statements during the trial itself, and on that evidence alone. And  
13 it intends to reject the presumption of innocence, invite Your Honour  
14 to do so, and instead adopt an alternative conceit, because that is  
15 what it is, that the SPO must always be right and must also always be  
16 in the right.

17 We, however, are confident on this side of the courtroom that  
18 Your Honour will disappoint the SPO in that regard, and instead  
19 approach the evidence with an open mind, keeping that open mind until  
20 you have heard all the evidence and listened to all the speeches from  
21 all parties, and given due heed to the presumption that Mr. Smakaj is  
22 innocent unless and until the Prosecution proves otherwise on the  
23 evidence alone. And that is what we ask for, Your Honour.

24 JUDGE GOSNELL: Thank you, Mr. Rees.

25 Mr. Edwards, I see we have 19 minutes before the break. Would

1 you be able to commence before then?

2 MR. EDWARDS: Your Honour, I will commence and endeavour to  
3 finish. And for the benefit of the interpreters and the  
4 stenographers, I'll try to speak slowly.

5 More than 27 months after Isni Kilaj's initial arrest at his  
6 home in Malisheve, the town for which he was elected twice mayor,  
7 this trial finally - finally - starts.

8 For more than 27 months, 18 of which was spent remanded in  
9 custody, Mr. Kilaj's life has been on hold. It is hard to  
10 overestimate just how much he and his family have been looking  
11 forward to this moment because finally, in open court, the world will  
12 see just how paper thin the Prosecution's case against him really is.

13 This case involves five accused, 19 counts on an indictment.  
14 That carries with it a degree of complexity to be sure.

15 But focusing in, as I do, on the case against Mr. Kilaj  
16 specifically, it is evidentially as simple, as factually  
17 uncomplicated as any case before an internationalised court could  
18 possibly get.

19 The Prosecution's case is built upon a single meeting at the  
20 detention unit of this Kosovo Specialist Chambers on 6 October 2023.  
21 Mr. Kilaj and his friend of many years, Vllaznim Kryeziu, visited  
22 Mr. Thaci for a couple of hours. They talked, they joked, they  
23 reminisced about the old days, about the war in which they all  
24 bravely fought in defence of their beloved Kosovo. They gossiped  
25 about people they have all known for decades.

1           As you heard earlier this morning, the Prosecution allege that  
2 Mr. Thaci gave Mr. Kilaj instructions to meet with witnesses that  
3 were to testify in his case and to tell them what they should say in  
4 court and how they should say it.

5           I want to make it very clear that we make absolutely no  
6 concession about what Mr. Thaci did or did not say to Mr. Kilaj.  
7 Mr. Kilaj admits nothing about any alleged instructions. As in any  
8 criminal court anywhere in the world, whether in Kosovo, whether in  
9 the United Kingdom, whether in Canada, anywhere, the Prosecution  
10 brings this case, and it is for the Prosecution to prove its case, to  
11 prove that Mr. Kilaj is guilty as charged. He is not required to  
12 prove his innocence.

13           And I don't seek to excuse myself by repeating what Mr. Rees  
14 just said to you a few moments ago, reiterating the importance of the  
15 burden and standard of proof, because it is that important.

16           But even if the Prosecution does manage to prove what was  
17 discussed during the 6 October visit, there is absolutely no evidence  
18 of Mr. Kilaj contacting any witnesses in Case 06 thereafter, much  
19 less any evidence of Mr. Kilaj meeting with any witnesses thereafter,  
20 much less still any evidence of Mr. Kilaj telling any witnesses what  
21 they should or shouldn't say when they come to testify before this  
22 Court in Case 06.

23           Your Honour, in the nearly four weeks between the meeting on  
24 6 October 2023 and Mr. Kilaj's arrest on 2 November 2023, Your Honour  
25 will hear not a shred of evidence of anything done by Mr. Kilaj

1 resulting from his visit at the detention unit. Nothing. He left  
2 the detention unit on that Friday afternoon and then simply got on  
3 with his life in Kosovo for the next 27 days, until his life was  
4 turned upside down.

5 Not only is there no evidence of Mr. Kilaj doing anything after  
6 the 6 October meeting, there is no evidence of the slightest  
7 relevance of any actions undertaken by Mr. Kilaj before the 6 October  
8 meeting that will help you determine criminal intent on his part.

9 After considering what little evidence there is against  
10 Mr. Kilaj in this case, Your Honour may feel that the question at the  
11 heart of the matter is Mr. Kilaj's intent regarding the two counts he  
12 faces in Count 14 and 15, what lawyers who like to try and sound  
13 clever call the *mens rea*.

14 After presenting what little evidence there is against  
15 Mr. Kilaj, the Prosecution will ask Your Honour to arrive at  
16 inferences about Mr. Kilaj's intent, to draw conclusions based on his  
17 conduct about his intent in order to substantiate the two counts he  
18 faces. But I can tell Your Honour now, the Prosecution will give you  
19 precisely nothing to allow you to draw the conclusions that they want  
20 you to.

21 There is evidence that Your Honour might expect to hear from a  
22 Prosecution that carries the burden of proving its case, a heavy  
23 burden that demands the Prosecution to prove its case beyond  
24 reasonable doubt, but that evidence in this case will be glaringly  
25 conspicuous by its absence. You will hear no evidence of a broader

1 conspiracy, of any kind of joint enterprise that Mr. Kilaj is  
2 connected to the other men that follow Mr. Thaci on the indictment,  
3 other than through their simple association with Mr. Thaci, no  
4 evidence of association for the purposes of interfering with  
5 witnesses.

6 This is not just Defence rhetoric in our opening, Your Honour.  
7 It's the reality of the case. As you heard, each of these accused  
8 had their own group in the indictment. Mr. Kilaj is not alleged to  
9 have acted in concert or to have coordinated in any way with  
10 Messrs Smakaj or Fazliu or Kuci to interfere with any witnesses.

11 You will also hear no evidence from Witnesses 3 or 4 that they  
12 were contacted by Mr. Kilaj after the 6 October visit, or indeed from  
13 any witness before the 6 October visit. The Prosecution will suggest  
14 that Mr. Kilaj mentioned during the visit with Mr. Thaci that he had  
15 spoken to a Prosecution witness before that visit. It's not charged,  
16 but I'm going to deal with it because an important thing to note is  
17 this: Even taking Mr. Kilaj's alleged words at face value, he said  
18 that he met that witness a week before the 6 October visit, which was  
19 well after the witness's testimony in Case 06, so it couldn't  
20 possibly have been to interfere with his testimony.

21 But returning to Witness 4, and the charges in this indictment,  
22 not only is there a lack of evidence that Mr. Kilaj contacted him  
23 before or after 6 October, there is positive evidence that he had not  
24 ever been contacted by Mr. Kilaj. In a contact note from  
25 January 2024, Witness 4 said that he had last been in contact with

1 Mr. Kilaj in 2017, 2018. He also denied that anyone had tried  
2 recently, at that time, January 2024, to discuss his experiences  
3 during the war, or in any attempt to interfere with his testimony.  
4 Those denials were repeated in later contact notes in May and then  
5 again in June 2025.

6 This evidence is recorded in contact notes created by  
7 Prosecution staff and the subject of agreed facts as between the  
8 Prosecution and the Defence. And here I refer to the fourth  
9 notification of additional agreed facts filed yesterday.

10 Your Honour, the Prosecution has no evidence to undermine the  
11 truth of what has been recorded in these contact notes and, indeed,  
12 is entirely consistent with the SPO's case.

13 11 months ago, in filing 234, 21 March 2025, in response to our  
14 submissions on provisional release, the Prosecution said this  
15 regarding its case on Witness 4. At paragraph 4 [sic] of that  
16 filing, they said:

17 "In any event, in submitting that recent disclosures show that  
18 Kilaj did not meet with Witness 4, and that this in turn demonstrates  
19 that Kilaj did not participate in a joint effort to influence  
20 Witness 4's testimony, Kilaj shows a clear misunderstanding of the  
21 Indictment and the Confirmation Decision, which are not premised upon  
22 Kilaj having met directly with Witness 4. The import and  
23 significance of that evidence - which the SPO views differently from  
24 Kilaj - will be discussed at trial."

25 That's paragraph 10, Your Honour.

1           So here we now are, Friday, 27 February 2026, and we invite the  
2           SPO, as promised, to enlighten us as to what the import and  
3           significance is of their evidence against Mr. Kilaj, and, perhaps  
4           more specifically, what the import and significance is of the absence  
5           of any evidence that he contacted Witness 3 or 4.

6           We've listened carefully to the Prosecution's opening this  
7           morning. I must confess, I'm no clearer now as to what the import  
8           and significance of the absence of this evidence is. No clearer now  
9           than I was a year ago. And we look forward to hearing how the  
10          Prosecution is going to build their case against Mr. Kilaj, how they  
11          will demonstrate, to use the words of my learned friend a few moments  
12          ago, such a compelling and overwhelming case against him.

13          I'm sure it's unnecessary for me to do this, but with great  
14          respect, I urge Your Honour to keep at the front of your mind  
15          throughout this short trial that the Prosecution's case about the  
16          discussions on 6 October were all about the issuing of instructions  
17          to manipulate witness evidence. I reiterate that we make no  
18          concessions about what may or may not have been said by anyone during  
19          that visit. But there is zero evidence of anyone actually taking  
20          steps to manipulate witness evidence, not even preparatory steps,  
21          much less steps that are more than preparatory, which is required for  
22          attempted liability.

23          That brings me to the third category of evidence that is  
24          conspicuous by its absence, and it's this: The Prosecution has taken  
25          a decision - a strategic decision, no doubt - not to call any

1 witnesses from Case 06. The only Prosecution witnesses Your Honour  
2 will hear from over the course of the next few days, in this  
3 five-handed Prosecution case, scheduled for less than a week of trial  
4 time, are what might be described as professional witnesses. And it  
5 almost sounds like the beginning of a bad joke. [REDACTED] Pursuant  
to In Court Redaction Order F765RED.

6 [REDACTED] Pursuant to In Court Redaction Order F765RED., a forensic  
document expert, and a computer imaging  
7 specialist walk into a courtroom. It might even be slightly comedic  
8 if it were not so tragic, tragic for Mr. Kilaj and his family.

9 But that is the shape of this case. That is the shape of what  
10 is going to be called over the next few days, the sum total of live  
11 evidence that the Prosecution - strategically - have chosen to call.

12 And Your Honour may conclude by the end of this week that the  
13 reason they're not calling any witnesses of real importance is  
14 because if they did that, their case against Mr. Kilaj would be  
15 revealed for what it is. An empty shell. A case built on  
16 allegations that on the most cursory analysis is as unsubstantial as  
17 gossamer.

18 I've spoken at length now about the lack of evidence, but I see  
19 the time. I was hoping I'd be able to finish, but I don't think I  
20 will. With Your Honour's leave then, perhaps I can pick up after the  
21 lunch adjournment.

22 JUDGE GOSNELL: Certainly, Mr. Edwards.

23 So we will stand adjourned until 2.30. And at that time, we  
24 will hear the remainder of Mr. Kilaj's opening statement. And then I  
25 would ask that Witness 7 be ready to commence his testimony, please.

1 MR. HAFETZ: Thank you, Your Honour. He will be. And we'll  
2 just need a short break for the protective measures. Thank you.

3 JUDGE GOSNELL: Certainly. Thank you very much.  
4 We're adjourned.

5 --- Luncheon recess taken at 1.28 p.m.

6 --- On resuming at 2.30 p.m.

7 JUDGE GOSNELL: Good afternoon.  
8 Mr. Edwards.

9 MR. EDWARDS: Thank you, Your Honour.

10 Just before the break, I was about to embark on my next point  
11 which -- well, I was reminding myself that I had been speaking about  
12 the lack of evidence of Mr. Kilaj's contact with Prosecution  
13 witnesses, much less any evidence of actual obstruction in this case.  
14 And we say that that's important because, even taking the  
15 Prosecution's case at its highest, it fatally undermines any  
16 suggestion that Mr. Kilaj ever intended to obstruct, or attempt to  
17 obstruct, or assist, or agree to obstruct official persons in  
18 performing official duties, as is compendiously charged in Count 14.

19 Just before the break, I made the point that the case against  
20 Mr. Kilaj is factually fairly straightforward, but that simplicity  
21 stands in stark contrast to the over-engineered complexity of how  
22 Count 14 is pleaded, how it's framed.

23 In our pre-trial brief, we explore the complexity and, frankly,  
24 the unorthodoxy, if not complete novelty, of how Count 14 is framed.  
25 It rather impressively achieves the seemingly impossible goal of

1 embracing a plethora of different modes of liability concurrently  
2 whilst, in fact, alleging nothing of substance at all.

3 Your Honour will be familiar with the iterative process of the  
4 indictment confirmation. And I'm not going to take Your Honour's  
5 time up now by rehearsing the chronology. It's all contained fairly  
6 well in your predecessor's Confirmation Decision. But it's worth  
7 noting what the Pre-Trial Judge said at paragraph 192 of the  
8 Confirmation Decision, and this is public:

9 "... the supporting material does not demonstrate that there is  
10 a well-grounded suspicion that the acts and statements of  
11 Messrs Thaci, Fazliu, Smakaj, and Kilaj, obstructed the work of  
12 SC/SPO Officials in the context of SC Proceedings."

13 So just pausing there for a moment. We've been waiting,  
14 Mr. Kilaj has been waiting 27 months for a trial that is all about  
15 obstruction and interference with the administration of justice, but  
16 it's already been determined that there is no well-grounded suspicion  
17 that obstruction actually happened. And we heard earlier this  
18 morning the Specialist Prosecutor, in opening the case, stating, and  
19 I'm sort of paraphrasing, that it doesn't matter if the accused were  
20 successful in their efforts to influence witnesses. As a matter of  
21 law, that might be right, but Your Honour may think that that is a  
22 fairly bold statement designed to manage your expectations about what  
23 actually the evidence against Mr. Kilaj shows.

24 This was not the indictment that the Specialist Prosecutor  
25 wanted to run in the first place. This indictment was not the SPO's

1 first choice. It wasn't even their second choice of indictment. The  
2 operative indictment was their third bite at the cherry. The  
3 Prosecution had had to return to the drawing board time and again,  
4 after each previous version of their indictment was subjected to some  
5 judicial scrutiny and found wanting, and what we have now is a  
6 Count 14 which alleges complex layering that just doesn't actually  
7 make very much sense. It's torturous. It's bizarre.

8 So we have obstruction of official persons, the substantive  
9 underlying ingredient in Article 401. We have participation in the  
10 common action of a group, the first tier of a mode of liability  
11 required because it's charged under (2). We have attempt as the  
12 second tier of a mode of liability charged as a consequence of the  
13 Pre-Trial Judge finding that actual obstruction was not sustained on  
14 the evidence. And then this third tier of alternative theories of  
15 liability, whether commission, whether agreement, or assistance.  
16 These three alternative theories are simply verbatim replications of  
17 the earlier unconformed iterations of the indictment.

18 So I've described it as torturous. I've described it as  
19 bizarre. This bizarre layering of one form of mode of liability on  
20 top of another achieves nothing in presenting to Your Honour a  
21 straightforward, uncomplicated allegation of criminality on the part  
22 of Mr. Kilaj, much less, to use the words of my learned friend this  
23 morning, a compelling and overwhelming case.

24 We say that, rather, it acts to obscure - unsuccessfully - the  
25 hard truth that there is no evidence of criminality here at all as

1 far as Mr. Kilaj is concerned.

2 Your Honour is going to have to answer questions such as whether  
3 an accused can assist an attempt, as opposed to assist the commission  
4 of an offence; and, if so, what the required intent of the alleged  
5 assister has to be. Questions such as how does one agree to attempt  
6 something, to merely attempt something.

7 We suspect that Your Honour will not take very long to conclude  
8 that these questions posed by the framing chosen by the SPO in the  
9 drafting of Count 4 simply exposes the insubstantial nature of the  
10 allegations against Mr. Kilaj.

11 And as we say in our pre-trial brief, prosecutorial creativity  
12 such as we see here is often a marker, isn't it, of evidential  
13 fragility. We say that this case here today is a paradigm example of  
14 just that phenomenon.

15 I've come to the end. I've been focusing on Count 14, but I  
16 will address Your Honour very briefly on Count 15, contempt of court  
17 by assisting President Thaci to disobey Court orders allegedly. And  
18 once again, we're in the realm of prosecutorial creativity that  
19 crosses into overreach.

20 In one short paragraph in its pre-trial brief, the Prosecution  
21 state how it is that Mr. Kilaj is alleged to have assisted Mr. Thaci  
22 to commit contempt of court by, firstly, visiting him in the first  
23 place, without going to the bother of explaining where Mr. Kilaj was  
24 hiding the crystal ball that would have allowed him to know what was  
25 going to be discussed. The Prosecution rely on the fact that

1 confidential material was discussed, without explaining how Mr. Kilaj  
2 could have known that the material in question was, in fact,  
3 confidential, or suggesting how Mr. Kilaj could have avoided his own  
4 criminal liability for assistance in these circumstances.

5 Rhetorically, I ask, should he have just put his fingers in his ears  
6 and hummed loudly so as to not be a participant in the conversation?

7 The Prosecution say that criminal liability is established by  
8 him receiving and then keeping confidential documents, without  
9 explaining how that works when, by that point, the alleged contempt  
10 of court must have already taken place.

11 Mr. Kilaj, it's a sort of damned if you do, damned if you don't  
12 situation he finds himself in because the Prosecution specifically  
13 rely on the fact that Witness 4's statement was found torn up and in  
14 the bin. That's evidence of Mr. Kilaj disposing of something that he  
15 no longer needs or just doesn't want to have in his possession  
16 anymore. It's quite a reach for the Prosecution to say: Aha,  
17 there's proof of a guilty mind. He's disposing of incriminating  
18 material. How could he have known that he was going to be arrested  
19 in the days that follow? It doesn't make sense, Your Honour.

20 So to reiterate a point that both Mr. Rees made and I made this  
21 morning, it's for the Prosecution to prove its case against Mr. Kilaj  
22 and to prove that beyond reasonable doubt. We - Mr. Kilaj and his  
23 legal team - are confident that by the end of this very short trial  
24 you will comfortably conclude that the Prosecution has not even come  
25 close to meeting that standard as far as Mr. Kilaj is concerned.

1 Thank you.

2 JUDGE GOSNELL: Thank you, Mr. Edwards.

3 I understand from the Registry that it will take approximately  
4 15 minutes to implement the protective measures for the witness. So  
5 we will now adjourn until five minutes to 3.00, so please do stay in  
6 or near the courtroom, and we will recommence then.

7 Thank you.

8 --- Break taken at 2.42 p.m.

9 --- On resuming at 2.55 p.m.

10 JUDGE GOSNELL: Just as a matter of scheduling, I expect that we  
11 will continue with the witness until 3.55, and then there will be a  
12 couple of housekeeping matters to take care of and an opportunity for  
13 the parties to raise any issues as they may consider necessary.

14 Court Clerk, would you please usher the witness into the  
15 courtroom.

16 [The witness entered court]

17 JUDGE GOSNELL: Good afternoon, Mr. Witness. Can you hear me?

18 THE WITNESS: Good afternoon, Your Honour. Yes, I can hear you.

19 JUDGE GOSNELL: Mr. Witness, you are called to testify before  
20 the Specialist Chambers in the case of the Specialist Prosecutor  
21 versus Thaci, Smakaj, Kilaj, Fazliu, and Kuci. As you may know, you  
22 have been granted protective measures in this case, and you have been  
23 assigned a pseudonym, which means we will not be mentioning your name  
24 but will refer to you as "Mr. Witness," or "Witness 7" to make sure  
25 the public does not know your identity. You also have face and voice

1 distortion, which means that no one outside the courtroom watching  
2 the broadcast can see your face or hear your real voice during your  
3 testimony.

4 When you answer questions that will not reveal your identity, we  
5 will do so in open session, which means the public can hear what is  
6 being said in the courtroom. When you are asked to describe anything  
7 that relates specifically to you or reveals your identity or your  
8 position, we will do so in private session.

9 Your testimony will be broadcast with a delay, and we can remove  
10 any information from the broadcast that may tend to reveal your  
11 identity.

12 Mr. Witness, can you confirm that you understand the measures  
13 that are in place to protect your identity?

14 THE WITNESS: Yes, Your Honour. I understand.

15 JUDGE GOSNELL: After you have taken the solemn declaration to  
16 tell the truth, you will be asked questions by the SPO and then by  
17 the Defence. And at the end of your testimony, thereafter I may pose  
18 some questions to you.

19 So I invite you, please, to listen carefully to the questions.  
20 You're expected to tell the truth. And if you do not understand a  
21 question, then please feel free to ask for a clarification.

22 I will now ask you, Mr. Witness, to read the solemn declaration  
23 to tell the truth.

24 THE WITNESS: Conscious of the significance of my testimony and  
25 my legal responsibility, I solemnly declare that I will tell the

Witness: Witness 7 (Private Session)

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1 truth, the whole truth, and nothing but the truth, and that I shall  
2 not withhold anything which has come to my knowledge.

3 WITNESS: WITNESS 7

4 JUDGE GOSNELL: Thank you.

5 It is an offence within the jurisdiction of the  
6 Specialist Chambers to give false testimony. And do you understand  
7 this?

8 THE WITNESS: Yes, I do.

9 JUDGE GOSNELL: Thank you, Mr. Witness. You are now under oath  
10 to tell the truth. And I now call upon the Prosecution, Mr. Halling,  
11 to take the floor, please.

12 MR. HALLING: Thank you, Your Honour.

13 And good afternoon, Witness.

14 Your Honour, in order to identify the witness safely, we would  
15 ask to briefly go into private session for my initial questions.

16 JUDGE GOSNELL: Certainly.

17 Private session.

18 [Private session]

19 [Private session text removed]

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Witness: Witness 7 (Private Session)

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1 [Private session text removed]

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22 [Open session]

23 THE COURT OFFICER: Your Honour, we are now in open session.

24 MR. HALLING:

25 Q. Witness, did you previously give three declarations to the SPO

Witness: Witness 7 (Open Session)

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1 about this case?

2 A. Yes, I did.

3 MR. HALLING: And, not to be broadcast in accordance with the  
4 general rule, please pull up the first page of the first declaration  
5 and put it on the screen.

6 Q. And, Witness, please just wait one moment for that item to be  
7 pulled up.

8 Witness, focusing on the English version on the left side of the  
9 page, is this your first declaration?

10 A. Yes, it is.

11 MR. HALLING: If we could now pull up the first page of the  
12 second declaration and put it on the screen.

13 Q. Witness, is what is on the screen now your second declaration?

14 A. Yes, it is.

15 MR. HALLING: And now, finally, if we could pull up the first  
16 page of the third declaration.

17 Q. Witness, is what is on the screen now your third declaration?

18 A. Yes, it is.

19 Q. Have you recently had an opportunity to refamiliarise yourself  
20 with the contents of these declarations?

21 A. Yes, I had opportunity last week.

22 Q. Do these accurately reflect what you said and what you would say  
23 if asked again in court today?

24 A. Yes, it is.

25 MR. HALLING: Your Honour, having fulfilled the Rule 154

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1 criteria, and in accordance with decision F00687, the SPO hereby  
2 tenders all three declarations in English and Albanian into evidence,  
3 along with the associated exhibits identified in footnote 6 of  
4 Your Honour's Rule 154 decision.

5 JUDGE GOSNELL: Any objection?

6 MS. MENEGON: No objection, Your Honour.

7 JUDGE GOSNELL: Seeing no objection from the Defence, the three  
8 documents are admitted.

9 Madam Registrar, do you have the ERN numbers? Yes, okay.

10 Then you may proceed, Mr. Halling.

11 [Single Judge and Court Officer confers]

12 THE COURT OFFICER: Thank you, Your Honour. The first  
13 declaration, Albanian and English version, will receive  
14 Exhibit P00168.

15 The second declaration, English and Albanian version, will  
16 receive Exhibit P00169.

17 And the third declaration, English and Albanian versions, will  
18 receive Exhibit P00170.

19 MR. HALLING: Yes. For the three associated exhibits, those  
20 ERNs can be said in open session, and we would ask that they also be  
21 ascribed exhibit numbers.

22 THE COURT OFFICER: Thank you, Your Honour. The associated  
23 exhibits with the ERN 051775 to 051780 RED2 will receive  
24 Exhibit P00171.

25 The second associated exhibit with the ERN 051765 to 051770

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1 RED2, Albanian and English version, will receive Exhibit P00172.

2 And the final third associated exhibit with the ERN  
3 053191-TR-ET, Albanian and English versions, will receive  
4 Exhibit P00173. Thank you.

5 MR. HALLING: Thank you, Madam Court Officer.

6 Q. Witness, I have some further questions about your declarations,  
7 but first I wanted to ask you about some general procedures that  
8 applied during the Thaci *et al.* trial, also known as Case 06.

9 In Case 06, was there a procedure governing Defence contacts  
10 with SPO witnesses?

11 A. Yes, it was.

12 Q. Were the Defence teams in that case able to contact witnesses  
13 directly?

14 A. No, they weren't.

15 Q. Did the SPO explain to witnesses that they could not be  
16 contacted directly by the Defence?

17 A. Yes, the SPO explained to the witnesses they cannot be contacted  
18 directly.

19 Q. In Case 06, was there a procedure governing preparation of SPO  
20 witnesses?

21 A. Yes, there was a procedure in the Case 06.

22 Q. As part of this witness preparation procedure, were witnesses  
23 given their prior statements for review?

24 A. Yes, they were given previous statements.

25 Q. In those preparation sessions, were they given an opportunity to

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1 make changes or corrections to those statements?

2 A. Yes, they were given opportunity to change or do some  
3 redactions.

4 Q. I'd like to turn now to a couple of discrete points, and we can  
5 use your first declaration.

6 MR. HALLING: If we can now put back on the screen what is now  
7 P168, specifically at paragraph 4.

8 Q. And, Witness, we'll just wait a moment again for this to be put  
9 on the screen.

10 MR. HALLING: Thank you. If we can scroll down so that  
11 paragraph 4 is fully visible. Thank you.

12 Q. So, Witness, as described here at paragraph 4, you've provided a  
13 list of Case 06 witness names, codes, and whether they have  
14 protective measures. Please describe how you verified this  
15 information.

16 A. I verified this information in the SPO internal databases in the  
17 CaseMap.

18 Q. Was this the same process you used to verify the witness charts  
19 in your second and third declarations?

20 A. Yes, it was the same.

21 Q. In a situation where one of these witnesses discloses to the  
22 public that he or she is a witness before testifying, does that  
23 person lose protection to which they would otherwise be entitled to  
24 receive by the SPO?

25 A. No, they don't lose any kind of the protection.

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1 Q. Thank you.

2 MR. HALLING: And, Your Honour, we'll note there for the record  
3 paragraph 524 of the Gucati and Haradinaj trial judgment.

4 If we could now go to paragraph 9 of the first declaration.

5 Q. Here, you were talking about disclosure of certain witness  
6 statements to the Defence. How did you verify the accuracy of this  
7 information?

8 A. So I would like to explain procedure how we did it. We received  
9 from the Senior Prosecutor information which witness statements and  
10 which witness names will be disclosed to the Defence, and we would  
11 call witnesses to inform them about this. I would verify this  
12 information also through the SPO databases and including CaseMap.

13 Q. Thank you.

14 MR. HALLING: If we can now go to paragraph 10, which bridges  
15 the page in the English.

16 Q. Witness, here you're talking about how SPO resources were  
17 expended. Are you describing here general measures the SPO has taken  
18 to combat interference in Case 06?

19 A. Yes, I am describing there general measures.

20 Q. Are you in a position to say what SPO resources were spent  
21 specifically because of this case?

22 A. It's not possible because -- only because of this case. We had  
23 several cases from this, and it's difficult to -- to say specifically  
24 for this case.

25 Q. One of the measures on the other side of the page in

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1 paragraph 10 - if we can just turn the page - just focusing in  
2 particular on rearranging witness order. When witnesses were moved  
3 in the Case 06 order, would the SPO explain those moves to the  
4 Case 06 Trial Panel and parties?

5 A. I don't recall.

6 Q. So were you yourself always privy as to why particular witnesses  
7 were moved?

8 A. No.

9 Q. Was the investigation into this case part of your SPO duties?

10 A. No, it was not.

11 Q. Are you familiar with the investigative steps taken in this  
12 case?

13 A. No, I'm not.

14 Q. Do you know anything about how the detention centre recording  
15 transcripts in this case were made?

16 A. No, I don't.

17 Q. I'd now like to ask you about paragraph 11, which you can still  
18 see on the screen.

19 Here you're talking about the timing of the testimony of certain  
20 witnesses. Was this information verified through the same internal  
21 databases you were discussing for previous paragraphs?

22 A. Yes, it was verified from the same information.

23 Q. Was this also how you verified similar testimony information for  
24 other witnesses in your second and third declarations?

25 A. Yes, it was.

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1 Q. Thank you.

2 MR. HALLING: This can be taken off the screen.

3 Q. Are you familiar with what KSC travel records for witnesses look  
4 like in Case 06?

5 A. Yes, I am.

6 Q. Around how long before testimony would Case 06 witnesses travel  
7 to The Hague?

8 A. It's case by case, but let's say between 7 and 10 days before  
9 testimony.

10 Q. Why did the witnesses travel so far in advance of their  
11 testimony?

12 A. They also need some time for the -- reading their statements.  
13 It means for the proofing. And depends how much materials was there,  
14 and that depends how many days in advance they should travel here.

15 Q. Thank you. And when you mentioned proofing in that last answer,  
16 is that in reference to witness preparation that you were describing  
17 previously?

18 A. Yes, that's correct.

19 Q. So to focus on Rrustem Mustafa specifically, you said in that  
20 last paragraph of P168 that he testified from 11 July 2023.

21 MR. HALLING: If the Court Officer could now please put on the  
22 screen SPOE00408671 to 00408675 RED and specifically page  
23 SPOE00408674. And if we could scroll down a little to make the  
24 attachment visible. Thank you.

25 Q. Witness, can you identify what this document is?

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1 A. Yes, I can.

2 Q. What is it?

3 A. This is a ticket for the trip to The Hague. Usual for the  
4 witnesses who were coming to testify in The Hague.

5 Q. And so is this a KSC travel record of the kind you were just  
6 describing?

7 A. Yes, it was.

8 Q. Now, you see here Rrustem Mustafa's name and a travel date of  
9 4 July 2023, or one week before the 11 July testimony. Is this  
10 travel itinerary consistent with the Case 06 witness procedures you  
11 just described?

12 A. Yes, it is.

13 MR. HALLING: Your Honour, we would tender this item for  
14 admission into evidence.

15 JUDGE GOSNELL: Any objection from the Defence?

16 MS. MENEGON: No objection.

17 JUDGE GOSNELL: I see no objection from any of the other Defence  
18 teams. Therefore, this document is admitted.

19 THE COURT OFFICER: Thank you, Your Honour. Document with the  
20 ERN SPOE00408671 to 00408675 RED will receive Exhibit P00174. Thank  
21 you.

22 MR. HALLING: Thank you, Your Honour.

23 Q. Thank you, Witness.

24 MR. HALLING: No further questions.

25 JUDGE GOSNELL: Ms. Menegon, I understand that you previously

1 estimated two hours of cross-examination for this witness.

2 MS. MENEGON: Yes, Your Honour, indeed. Given the time that  
3 we're at, I would respectfully ask leave to start my  
4 cross-examination on Monday. You had indicated in your filing F705,  
5 paragraph 8, that if we consider that we are not sufficiently  
6 prepared for cross-examination, we could ask for such a postponement.

7 We would appreciate to have this limited extra time in order to  
8 streamline our cross-examination, especially because there has been a  
9 lot of discussions with the other parties regarding agreed facts  
10 which may have an impact as to the scope of my cross-examination, and  
11 I don't think it would be prejudicial for any party, and it would be  
12 in the interest of a good administration of justice.

13 Thank you.

14 JUDGE GOSNELL: Yes. And in the decision 705, I had anticipated  
15 that any request for an adjournment would be made somewhat further in  
16 advance than at the moment that the cross-examination was expected to  
17 begin.

18 MS. MENEGON: Yeah, I was not sure about the length of the  
19 progress of today. And also since we had some delays this morning,  
20 this is also why I'm asking for that now. Thank you.

21 JUDGE GOSNELL: And I don't suppose any other Defence teams are  
22 ready to proceed with their cross-examination at this time?

23 MR. REES: No. In fact, I support the application that's made  
24 by Ms. Menegon.

25 JUDGE GOSNELL: All right. Well, in that case we will adjourn

1 the hearing for today. However, there are some procedural matters I  
2 would like to address before we adjourn.

3 So, Mr. Witness, that concludes your testimony for today. We  
4 will resume your testimony on Monday. Thank you very much for being  
5 here today. Let me remind you that until Monday you are not to  
6 discuss your testimony with anyone. And you'll now be assisted by  
7 the Registry to leave the courtroom. Thank you.

8 THE WITNESS: Thank you.

9 [The witness stands down]

10 MR. HALLING: And, Your Honour, just before reaching those  
11 procedural matters, we understand the ruling that the Defence won't  
12 be cross-examining today. We also appreciate that the nature of that  
13 means that they may seek to supplement their presentation queue items  
14 over the weekend as they prepare. However, we would think that if  
15 they have presentation queue items now, they should have been on  
16 notice to at least release what they were planning to notify as of  
17 this moment, and we would ask that those presentation queues be  
18 released to the extent they exist.

19 JUDGE GOSNELL: Let me, first of all, ask the Thaci Defence  
20 whether -- or as of what moment in time over the weekend they would  
21 be in a position to release their presentation queue?

22 MS. MENEGON: We have prepared one already that we may -- we are  
23 able to release. It's just that we may withdraw some items. I mean,  
24 you know, in light of our effort to streamline our cross-examination,  
25 we may withdraw some items. We may add some more, probably not, but

1 we may withdraw some, so ...

2 JUDGE GOSNELL: Well, in that case, I do think it would be  
3 appropriate if the presentation queue were to be released at this  
4 point.

5 MS. MENEGON: It's fine with me.

6 JUDGE GOSNELL: Thank you very much.

7 Before I deal with my one housekeeping matter, may I ask whether  
8 or not there are any issues from the parties that need to be  
9 addressed?

10 MR. YOUNG: Your Honour, could I just raise a very short matter  
11 in relation to something that will occur on Monday.

12 Simply to say that given the evidence we've just heard from the  
13 witness, I think it's very likely I will ask the Court to briefly sit  
14 again in private session so that I can explore with the Court or the  
15 witness some of the evidence he's given about what evidence he can  
16 give, because he's obviously given an indication about what he was  
17 instructed to do and what he didn't do and what he didn't know about.  
18 So I would like explore that with the witness. I think it would be  
19 sensible to do it in private session because otherwise it might tend  
20 to reveal his identity. Thank you.

21 JUDGE GOSNELL: Yes. And, in fact, would it be appropriate -  
22 and here I'm addressing the Thaci Defence - to start the  
23 cross-examination on Monday morning in private session?

24 MS. MENEGON: I will have some introductory questions in open  
25 session, but really shortly I will move between private and open

1 session regularly.

2 MR. YOUNG: I should add we're releasing our presentation queue  
3 now.

4 JUDGE GOSNELL: Thank you. That's noted. And, of course, we  
5 will move into private session as necessary.

6 MR. REES: Your Honour?

7 JUDGE GOSNELL: Yes.

8 MR. REES: There is one matter that I would wish to raise if  
9 this is a convenient time.

10 It's simply in relation to the outstanding motion that we filed  
11 seeking redactions to remove material that does not, in fact, appear  
12 on the audio recordings from the transcripts of 9 September and  
13 7 October 2023. It's F004 -- 747. So I'll say that again: F00747.

14 The question that I would wish to raise is to ask Your Honour if  
15 Your Honour is in a position to let us know when we might anticipate  
16 Your Honour's decision. It will have an impact, or may have an  
17 impact, on the extent, if any, of cross-examination that I have for  
18 this witness. So that's why I raise it at this point, Your Honour.

19 JUDGE GOSNELL: I understand. And I believe we received the  
20 reply on Thursday or Wednesday of this week?

21 MR. REES: Certainly it was -- there was an expedited timetable  
22 that Your Honour set down to deal with the filings, but the SPO's  
23 response and the reply were filed in accordance with that timetable.  
24 Your Honour has it.

25 JUDGE GOSNELL: I can't promise, Mr. Rees, that we'll have a

1 decision out by the end of Monday. I can only say that it's under  
2 consideration and we'll do our best, but --

3 MR. REES: Well, I -- and I'm very grateful for that, and I  
4 don't intend to put any pressure, of course, on Your Honour. On the  
5 contrary, I urge Your Honour to take such time as is appropriate to  
6 deal with it. But it may be that, in those circumstances, I would  
7 ask on Monday to reserve my position in relation to any  
8 cross-examination of *[REDACTED] Pursuant to In Court Redaction Order*  
*F765RED.*, and if necessary, if we're not in a  
9 position, or I'm not in a position, to ask that *[REDACTED] Pursuant*  
*to In Court Redaction Order F765RED.* be  
10 potentially available to be re-called on Tuesday.

11 JUDGE GOSNELL: Well, Mr. Rees, what I would suggest as an  
12 alternative to that is that you assume that the prior -- that your  
13 motion will not succeed, and that therefore the unredacted versions  
14 of the transcripts are in evidence, and conduct your  
15 cross-examination accordingly.

16 MR. REES: I'm grateful for that indication at least.

17 JUDGE GOSNELL: Thank you.

18 MR. REES: Thank you.

19 JUDGE GOSNELL: Did I hear from the Prosecution that there was  
20 something to raise?

21 MR. HAFETZ: Your Honour, just one minor related housekeeping  
22 issue in relation to what you mentioned this morning about the  
23 closing of the case.

24 Just to flag for Your Honour's attention, we will file, I think  
25 no later than Monday, a very brief -- I'll call it a supplemental

1 judicial notice motion just for items that were newly added to the  
2 exhibit list. It's two items. They're exactly the same character as  
3 before, and they're newly added to the exhibit list, so this was  
4 foreseeable. But just to let Your Honour know that that will come on  
5 Monday.

6 JUDGE GOSNELL: Thank you.

7 Are there any other matters from the Defence?

8 MR. EDWARDS: Not really a matter of housekeeping, Your Honour.  
9 It's just that there was a delay in the start of proceedings, and I  
10 didn't really have an opportunity to address Your Honour about it.  
11 But there was a difficulty involving public transport in The Hague  
12 and some confusion about tram routes, and that was the reason for the  
13 late arrival of Mr. Kilaj. So we apologise and thank the Court for  
14 its patience in waiting for his arrival. But it won't happen again.

15 JUDGE GOSNELL: Thank you, Mr. Edwards. That's very much  
16 appreciated.

17 So before we adjourn, I do have one housekeeping issue, which is  
18 an oral order.

19 I recall that in the Decision on the Conduct of Proceedings,  
20 F642, I instructed the Kuci Defence to file a public redacted version  
21 of F567 or request its reclassification as public by 30 January 2026.

22 On 4 February 2026, I reminded the Kuci Defence of this via  
23 e-mail correspondence.

24 Today, I order the Kuci Defence to file a public redacted  
25 version of F567 or to request its reclassification as public by

1 4 March 2026.

2 This concludes the oral order.

3 [Microphone not activated].

4 --- Whereupon the hearing adjourned at 3.30 p.m.

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