

Trial Preparation Conference (Open Session)

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1 28 November 2025
2 [Open session]
3 [Trial Preparation Conference]
4 [The accused appeared via videolink]
5 [The Accused Kilaj and Fazliu entered court]
6 --- Upon commencing at 9.30 a.m.

7 JUDGE GOSNELL: Madam Court Officer, would you please call the
8 case.

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

12 JUDGE GOSNELL: Good morning to everyone in and around the
13 courtroom, and to those joining us remotely.

14 Could we have appearances, please, starting with the
15 Prosecution.

16 MR. HAFETZ: Good morning, Your Honour. Josh Hafetz on behalf
17 of the Specialist Prosecutor's Office, and I'm joined this morning by
18 my colleagues Julie Mann, Claire O'Connell, Brent Hicks, and
19 Dirk-Jan Laman.

20 JUDGE GOSNELL: Thank you.

21 And now appearances for the Defence in the order appearing in
22 the indictment, please.

23 MS. MENEGON: Good morning, Your Honour. I am
24 Specialist Counsel for Hashim Thaci, and my name is Sophie Menegon.
25 And I am here today with Mr. Lirim Greicevci,

1 Ms. Léa Allix-Cornelissen, and Ms. Lisa Clamens. Thank you.

2 JUDGE GOSNELL: Thank you.

3 MR. REES: [via videolink] Your Honour, Jonathan Elystan Rees,
4 King's Counsel. I appear on behalf of Bashkim Smakaj.

5 Mr. Huw Bowden, co-counsel, is also present in the courtroom.

6 Can I say this, Your Honour, that due to delays in an on-running
7 murder trial that I have at the moment, I'm going to have to leave
8 the hearing after an hour. But Mr. Bowden, co-counsel, is fully
9 briefed and will be present throughout the day to represent
10 Mr. Smakaj's interest for the remainder of the hearing. Thank you.

11 JUDGE GOSNELL: Yes, I was informed. And thank you very much
12 for that, Mr. Rees.

13 Mr. Edwards.

14 MR. EDWARDS: Good morning, Your Honour. I represent
15 Isni Kilaj, together with, on the far right, Admir Berisha;
16 immediately to my right, Eva Kalb; my co-counsel Joe Holmes; and
17 appearing remotely, Omar Soliman. Thank you.

18 MR. YOUNG: Your Honour, good morning. I appear for
19 Mr. Fadil Fazliu this morning. I'm assisted today by Yuqing Liu, who
20 sits to my left. Thank you.

21 MR. ADMIRAAL: Good morning, Your Honour. My name is
22 Alexander Admiraal and I am Specialist Counsel for Mr. Kuci.

23 JUDGE GOSNELL: Thank you very much.

24 Could we now have an appearance from the Registry, please.

25 MR. NILSSON: Good morning, Your Honour. Jonas Nilsson, Deputy

1 Registrar, for the Registry today. Thank you.

2 JUDGE GOSNELL: Thank you very much to all of you for being
3 here, and to the accused who are present in the courtroom in
4 particular.

5 I am Christopher Gosnell. I am the Single Judge in this case.
6 I am sitting as a Single Judge pursuant to Article 15(2) of the Law
7 on Specialist Chambers, which so permits in respect of alleged
8 offences not classified as serious crimes under Article 22 of the
9 Kosovo Criminal Procedure Code, which is the case here.

10 On 12 November 2025, the Pre-Trial Judge transmitted the case
11 file in this case to me.

12 On 17 November 2025, as required by Rule 116(2) of the rules, I
13 issued a Scheduling Order for today's hearing, requesting submissions
14 from the parties on a number of topics relevant to preparing for the
15 opening of trial proceedings in this case. In that order, which is
16 filing 549, I indicated that I would exercise my discretion to
17 combine the Trial Preparation Conference under Rule 117 and the SPO
18 Preparation Conference under Rule 118 into a single conference to
19 take place today. I note that the SPO in its submissions, in filing
20 559, has requested that the two hearings be bifurcated, which I take
21 to be a request for reconsideration of my decision.

22 I will reserve my decision on that request until after today's
23 hearing, but I would hasten to add that regardless of how this
24 hearing is ultimately classified, I will not hesitate to schedule
25 further Status Conferences at the SPO's request as may be necessary

1 for the preparation of trial, and the classification of today's
2 hearing will not determine the start date of trial.

3 Before we go any further, I would like to remind everyone
4 intervening today, especially given the number of us who may share a
5 common first language, to speak at a reasonable pace and to avoid
6 overlapping speakers, please. That's the only way that our
7 invaluable interpreters and stenographers can do their work, which is
8 also vital to ensuring that the accused fully understand what is
9 being said.

10 I would ask you all as well, please, to try to formulate your
11 submissions in a way that avoids having to go into private session,
12 but, of course, if necessary, we will do so. If anyone becomes aware
13 of something having been said that requires a redaction, please do
14 send an e-mail immediately to the CMU officers as per the usual
15 procedure.

16 In terms of the schedule today, we will sit now until
17 11.00 a.m., when we will break for half an hour, and then continue
18 from 11.30 until 1.00 p.m. Thereafter, and if necessary, we will
19 have an afternoon session from 2.30 until 4.00 p.m.

20 I want to thank all the parties for the very helpful submissions
21 in preparation for today's hearing, which considerably narrow the
22 topics that we need to discuss today, and assist in clarifying the
23 points of disagreement as well as agreement between the parties.

24 And I propose to proceed today by asking, at first, a number of
25 questions of the parties, and then at the end, to permit to invite

1 the parties to raise any additional issues that they consider
2 necessary. Of course, bearing in mind that there is no need to
3 repeat submissions you've already made in writing.

4 So I'd like to start on a topic where there seems to be some
5 convergence of views, and that concerns the bar table motion. And I
6 note that the -- both the Prosecution and the Thaci Defence, at
7 least, appear to share the view that this motion should be filed in
8 advance of trial.

9 I read that the Prosecution is prepared to file that motion
10 during the week of 15 December 2025.

11 And I note that Mr. Thaci did not object to the timing of the
12 filing of the motion, but does request that the briefing schedule be
13 adapted to ensure that the Defence has adequate time to respond,
14 including by suspending the deadlines for responses and replies
15 during the judicial recess. And that was at paragraph 22 of your
16 filing 568.

17 I've consulted the calendar, and I note that that would imply a
18 period of about 40 days to respond, assuming that the bar table
19 motion is filed on 15 December. Can you comment, please,
20 Ms. Menegon, on the need for such an extensive period in order to be
21 able to respond to the Prosecution motion?

22 MS. MENEGON: Thank you, Your Honour. My concern was just to
23 not -- depending on the number of items tendered in writing and
24 depending on the legal issue raised, we may need further time. At
25 this stage, I'm not sure about the number of items raised, so I just

1 wanted to reserve our position. I'm not sure we need absolutely now
2 such an extension, but we may need to, and in which case, upon
3 reception of the bar table motion of the Prosecution, we may seek
4 such an extension. Thank you.

5 JUDGE GOSNELL: Thank you, Ms. Menegon.

6 I believe Mr. Thaci is raising his hand.

7 MS. MENEGON: Indeed, he told me at the beginning of today that
8 he wanted to make a brief observation. I don't know if you want to
9 give him the floor now or at the end of the hearing. It's not
10 related directly to the calendar as such.

11 JUDGE GOSNELL: May I suggest that we will continue on the
12 agenda, and Mr. Thaci will certainly have an opportunity before the
13 end of the hearing to make his intervention.

14 MS. MENEGON: Thank you.

15 JUDGE GOSNELL: Does the Prosecutor have any comment on the
16 nature of the bar table motion, whether or not -- or the time -- and
17 the timing for any responses?

18 MR. HAFETZ: Thank you, Your Honour. We defer to the Court on
19 the timing of the response.

20 What I can say is while there will be a significant number of
21 items as items in the bar table motion, which we've already forecast,
22 or any other motion for admission of evidence on the paper, the
23 categories are quite discrete and they're known. So just saying a
24 number doesn't help, right? There may be 200 records from -- paper
25 records from the detention centre that are all -- really have one

1 basis behind them, one legal justification behind them, so they're
2 really one for the purposes of deciding the motion. So -- and I
3 think we've broken down the categories, nearly all of them, in the
4 filing that we've already made. And we've been pretty transparent
5 about that.

6 And I will also note we've already had an *inter partes*
7 discussion, which was quite useful, and I thank all sides for that,
8 to attempt to narrow down the categories we have to come to
9 Your Honour on and may be able to find agreement on one or two of
10 them. And so we'll endeavour to keep doing that. Obviously, it will
11 be Your Honour's discretion whether to admit even if there is no
12 disagreement, but there may be some on which we agree and we are able
13 to present that to you.

14 JUDGE GOSNELL: And, Mr. Hafetz, do I understand that you're
15 planning on filing a bar table motion that is similar in form to bar
16 table motions that have been filed by the SPO in other cases?

17 MR. HAFETZ: Yes, Your Honour.

18 JUDGE GOSNELL: Do any other Defence teams have any comments on
19 the filing of a bar table motion in advance of trial or the timing
20 for any responses?

21 MR. REES: [via videolink] Your Honour, the Prosecution ought to,
22 if they intend to make an application of that type, they ought to
23 make it as soon as possible. The time that we will need to respond
24 to it and how thereafter it's dealt with is a matter that, in our
25 submission, is better addressed once the Prosecution have made such

1 an application. Then we can see it, then we can consider what's in
2 it, we can consider to what degree it's likely to be controversial
3 and to what degree Your Honour is going to be exercised with having
4 to determine it in whole or in part.

5 It seems to us that the best way forward would be for
6 Your Honour to set down a very strict timetable for the Prosecution
7 to make any such application not only setting out what they seek to
8 adduce but the basis upon which they seek to adduce it, setting out
9 what they say are the grounds for admissibility. And then we can
10 consider it, and if necessary, either in writing or via a further
11 Status Conference, we can make submissions upon the appropriate way
12 to deal with that in terms of both order and time to respond, because
13 it may be, Your Honour, that there are parts of it that don't need to
14 be immediately resolved. There may be other parts that do.

15 Suggesting -- trying to work out at this stage an all-or-nothing
16 approach, in our respectful submission, is probably not the most
17 sensible way to approach this. I think everybody, including, of
18 course, Your Honour - most importantly Your Honour - would be
19 assisted by the Prosecution actually getting on and making such
20 applications as they think are necessary to prepare their case for
21 trial. Once we have them, we can then all, in an educated way,
22 consider the best way to deal with them.

23 JUDGE GOSNELL: Thank you, Mr. Rees.

24 Any other Defence submissions on this point?

25 MR. EDWARDS: No, thank you.

1 MS. MENEGON: Your Honour, I just wanted to clarify. I think
2 you have mentioned 40 days to respond if we stay. But I see for the
3 file on the 15th of December, we would have to respond by
4 25 December, so I was just considering an extension, for instance,
5 until the first working week of January, like by 5 January, which
6 would be far less than 40 days. Thank you.

7 I just want to also point out that I agree with my colleague,
8 Mr. Rees, that we may just seek an extension upon reception. It may
9 be a simpler way to deal with it. Thank you.

10 JUDGE GOSNELL: Thank you.

11 Any other submissions? Mr. Young?

12 MR. YOUNG: No. No, thank you.

13 MR. ADMIRAAAL: No, thank you.

14 JUDGE GOSNELL: Thank you.

15 I think we will, in due course, issue a Scheduling Order that
16 deals with this issue first, probably a separate order on the timing
17 of the bar table motion, so that will either be decided later today
18 or no later than Monday, just for your information.

19 I'd now like to turn to the question of witnesses, testimonial
20 evidence to be heard in this case. And I thank all parties for very
21 constructive, and in some cases very specific, estimates concerning
22 how much time they'll need with witnesses.

23 The Prosecution, I note, has submitted that its case in chief is
24 estimated to last no longer than two weeks, and proposes that all the
25 witnesses be heard in a single block starting in February. And since

1 the duration of the testimonial case could have an impact on when
2 trial is scheduled to start, I want to make sure that I have the
3 clearest possible understanding of the anticipated duration of each
4 witness.

5 Now, in respect of Witness 7, I note that the SPO has confirmed
6 that it will tender, pursuant to Rule 154 of the rules, the three
7 previously disclosed statements as his testimony in chief.

8 Can I just clarify whether the Prosecution considers that there
9 is any possibility that the testimony in chief, not the issue of
10 cross-examination but the testimony in chief, could be affected by
11 the outcome of any ongoing investigations.

12 MR. HAFETZ: It could, Your Honour. It really is difficult to
13 say until we have the results of those investigations. It is
14 possible that it -- it would not be affected -- we're not talking
15 about hours more testimony, but there are details of which or
16 additional facts that may be elicited through him or evidence that
17 may have to come in through him depending on the results of the
18 investigation. So I just can't answer that right now.

19 JUDGE GOSNELL: Is the expected scope of any additions to his
20 testimony limited enough to say that it would be dealt with orally,
21 or would it be your intention to prepare an additional statement and
22 tender that testimony in that manner?

23 MR. HAFETZ: Again, it's possible that it might require paper,
24 Your Honour. It's just impossible to forecast that.

25 JUDGE GOSNELL: Because at first sight, it appears from the

1 statements that have already been produced that the direct testimony
2 is already fairly comprehensive even in respect of the ongoing
3 investigation. So without getting into any additional details that
4 might require us to go into closed session, I was curious to know
5 what exactly might be the subject matter of that additional testimony
6 from Witness 7.

7 MR. HAFETZ: What I can say, Your Honour, in open session, I
8 think, and I'm happy to go into private session to address the point,
9 but what -- but this may suffice. What I can say is the type of
10 additional information that would have to come through paper through
11 that witness, in other words, in the form of additional piece of a
12 declaration, would be very limited in scope. That's -- and it would
13 be of the nature of the things he's already described.

14 JUDGE GOSNELL: And I note from your pre-trial brief that the
15 estimate for his oral examination was two hours. And subsequent to
16 that filing -- it was subsequent to that filing that the submission
17 was made that his direct testimony would be tendered in written form.
18 So does that mean that your estimate for the live testimony of the
19 witness is reduced or not?

20 MR. HAFETZ: Not necessarily, Your Honour. It depends, one, on
21 the outcome of the 154 motion, if that is accepted, of course, but
22 also there will be additional materials that he needs to speak on
23 that are outside the scope of the full declaration. And so some of
24 the evidence that we intend to adduce would have to likely be put
25 through that witness and he be questioned on, so that may take up

1 part of that time.

2 The other thing I just want to go back to, because these are
3 directly connected, and Your Honour has raised them, as we said in
4 our filing, part of the length of the anticipation of the
5 Prosecution's case is dependent upon the resolution of the bar table
6 motions that we're talking about. That's obvious, and, to me, pretty
7 normal in this situation.

8 And so in their submissions, at least the Thaci team appeared to
9 agree with us that, again, the decision on those motions will be of
10 critical necessity to forecasting the length of the trial and to
11 actually doing it in an orderly fashion. And that's part of why
12 we've emphasised how important it is to put those before you and have
13 them decided.

14 JUDGE GOSNELL: Are the Defence teams in a position now to
15 comment on whether they intend to cross-examine Witness 7?

16 In this respect, I thank Mr. Rees for being very clear on that
17 point in his written submissions in his pre-trial brief. So I'd like
18 to ask the other Defence teams whether they have any position -- are
19 able to give a position on this point at this time.

20 MS. MENEGON: Yes, Your Honour. On our side, we intend to
21 cross-examine him. Thank you.

22 MR. EDWARDS: Your Honour, yes. We also intend to cross-examine
23 him. It will be a focused cross-examination that won't take very
24 long, although I'm always reluctant to say precisely how long, but
25 certainly within one trial session.

1 If I may, while I'm on my feet, make this observation, because
2 my learned friend for the SPO has just indicated that,
3 notwithstanding the three very full statements of Witness 7, there
4 may be additional oral testimony relating to additional material
5 outside the scope of those three statements. And it occurs to me
6 that if that is the case, the SPO has the time to reduce that
7 additional information into writing, into a fourth statement, which
8 could shorten any additional oral evidence to very little, if
9 nothing, and that assists both Your Honour and the Defence in terms
10 of notice of what this additional evidence, what this additional
11 material would address.

12 I simply raise that because it may be something that the SPO
13 could consider, and it may be something that Your Honour would
14 consider making an order about.

15 JUDGE GOSNELL: Thank you, Mr. Edwards. And just to say, of
16 course, that this is an issue on which consultations also between the
17 parties could be helpful, if they can come to an agreement on that
18 particular question.

19 Mr. Young.

20 MR. YOUNG: Your Honour, thank you. The position is that we
21 would certainly like to question Witness 7, but don't anticipate it
22 to lasting more than an hour or two in relation to various matters.

23 In relation to the issue of calling live evidence, obviously,
24 this trial is document heavy and short of witnesses. We see the
25 Prosecution appear to be suggesting they want to rely upon three

1 witnesses. All I do ask Your Honour today, and the parties to
2 consider, is some sort of order. Helpfully, in the *inter partes*
3 conference we had, we were given an idea of the order of possible
4 witnesses. But I'd be grateful if we could be told well in advance
5 of the trial the order of the witnesses.

6 And if I may defer my other point and come back later in the day
7 on that, because I'd like to address Your Honour in relation to the
8 policy on calling witnesses that the Prosecution have adopted. Thank
9 you.

10 JUDGE GOSNELL: Thank you.

11 Mr. Admiraal.

12 MR. ADMIRAAAL: Thank you, Your Honour. It depends on the
13 outcome of the ongoing investigations.

14 JUDGE GOSNELL: Thank you.

15 MR. REES: [via videolink] Your Honour. Your Honour?

16 JUDGE GOSNELL: Yes, Mr. Rees.

17 MR. REES: [via videolink] Obviously, I have indicated our
18 position in relation to Witness 7. But I, nevertheless, do wish to
19 raise something that concerns me, and it arises directly out of
20 something that Mr. Hafetz has said on behalf of the SPO and, indeed,
21 our earlier discussion.

22 Mr. Hafetz concedes that we would all be better informed dealing
23 with trial preparation matters if, for example, the SPO had provided
24 in advance of today's date their applications to admit documentary
25 material other than via a witness, the bar -- as they call it, a bar

1 table motion, setting out what they say is the basis for
2 admissibility of such material. I agree with him.

3 I also observe that these matters have been extant now for
4 well -- I think -- well, well over 12 months, and the Prosecution
5 ought to have prepared for trial by now. That's why I repeat,
6 firstly, that there ought to be a very short timetable imposed upon
7 the Prosecution to serve detailed applications to adduce any evidence
8 via the usual route, via an oral witness, and that should be done
9 immediately, frankly.

10 Secondly, the discussion that was just had in relation to
11 Witness 7 seems to have been predicated, at least on the SPO's
12 behalf, on the basis that the whole thing is a moving feast, and that
13 whether or not they have further testimony to adduce from Witness 7
14 depends on their ongoing investigations. Well, that's not quite
15 right because, in due course, any attempt to adduce further evidence
16 will have to come with an explanation as to why at this late stage
17 they're still seeking to add to the scope of their case.

18 I just wanted to make that clear because it does seem to us that
19 the SPO seems to be working on the basis that their time is
20 unlimited.

21 JUDGE GOSNELL: Thank you, Mr. Rees.

22 I'd now like to move on to Witness 9. Can I inquire of the
23 Prosecution whether you have disclosed any statements in respect of
24 this witness to the Defence?

25 MR. HAFETZ: Your Honour, we've disclosed what I believe are

1 four official notes from that witness. They're not statements as
2 such in that they were formally taken in a formal setting, but they
3 are official notes of his where he has written down how he went about
4 extracting -- in essence, extracting evidence from electronic
5 devices, that's what those are, and he's prepared to give testimony
6 on that. And he is the other Rule 154 witness.

7 JUDGE GOSNELL: So just to be clear, does that mean that you
8 intend to tender the four official notes as the 154 statement, or
9 will there be some sort of an amalgamation of the statements?

10 MR. HAFETZ: We would intend to submit those as his 154
11 statement, subject to, Your Honour, the addition of any additional
12 similar note he needs to make, which would be in the number of,
13 again, one to three or four pages, for any of the additional
14 material, for example, that he extracts from Mr. Kilaj's phone, which
15 was only obtained two months ago and is about to be finished with its
16 examination. So he would do a similar note explaining that, the
17 content of which would be just to essentially repeat, unless there's
18 anything technically different about it, how he went about making
19 those exhibits.

20 JUDGE GOSNELL: Thank you.

21 And now I'd like to turn to the Defence. And I realise that it
22 may not be possible, of course, at this stage, and that all estimates
23 are just estimates, but could I please receive from you at this point
24 your present intention in terms of cross-examination of this witness
25 and how long you can estimate it might take.

1 MS. MENEGON: Thank you. We are likely to cross-examine him,
2 but I have no -- I can't tell you -- I can't provide you now a time
3 estimate.

4 JUDGE GOSNELL: Mr. Rees. Mr. Rees, I don't know whether you
5 can hear me.

6 MR. REES: [via videolink] Apologies, Your Honour. I was just
7 looking for the mute button. Our position is the same as that
8 expressed by Ms. Menegon.

9 JUDGE GOSNELL: Thank you.

10 Mr. Edwards.

11 MR. EDWARDS: Yes. Ours is the same position as well.

12 MR. YOUNG: Your Honour, I'm sorry, but same position as well.
13 Thank you.

14 MR. ADMIRAAAL: The same position as before. It depends on the
15 outcome of the ongoing investigations. Thank you.

16 JUDGE GOSNELL: All right. Thank you.

17 Now we come to Witness 8, and I understand that there already
18 have been certain disclosures in respect of this witness. But can I
19 confirm that one or the other of the disclosures that have been made,
20 including the statement, do they constitute the expert report? And
21 when does the Prosecution intend to formally tender that as an expert
22 report?

23 MR. HAFETZ: Thank you, Your Honour. The expert report is not
24 the statement we took from him. That was to clarify his report. We
25 have disclosed the expert report, which is dated 14 December 2024,

1 and we have -- we will tender that through the paper if Your Honour
2 needs, but we intend to rely on that as an expert report.

3 So for purposes of Rule 149, from our perspective, that clock
4 has been triggered. I understand, and I'll note, that Mr. Thaci's
5 Defence has requested additional documentation, which we will provide
6 pursuant to Rule 102(3) on Monday, pursuant to the underlying
7 questions that led to the report, which are, from my perspective,
8 already in the report. But I understand the question, and I'm happy
9 to provide it. And we will provide that, I believe, on Monday.

10 But for our purposes, either the already disclosed report and
11 our putting him on the witness list with the intention to testify as
12 an expert has triggered the 149 requirement on the other side, or
13 certainly the provision of the 102(3) question that led to it would
14 do it.

15 JUDGE GOSNELL: All right. Thank you for that clarification.

16 I think that that is ERN 118299 to 118304. Perhaps you could
17 just double-check and confirm that. But it was a matter of just
18 confirming that that is, indeed, the expert report that is being
19 tendered pursuant to 149(1).

20 MR. HAFETZ: Thank you, Your Honour. And I'll check that while
21 we're here.

22 JUDGE GOSNELL: Thank you.

23 Do any of the Defence teams -- same question in respect of this
24 witness. Are they able to provide any estimates as to the
25 cross-examination of this witness? I note in particular the position

1 that's been set out in the Thaci pre-trial brief in respect of the
2 matter of printing. So that's what provokes the question, whether or
3 not there is a present intention to cross-examine this witness; and,
4 if so, for how long. If such an estimate can be provided, please.

5 MS. MENEGON: Yes, Your Honour. We intend to cross-examine him,
6 but I'm not able to provide a time estimate yet.

7 JUDGE GOSNELL: Mr. Rees.

8 MR. REES: [via videolink] We similarly reserve our position.

9 JUDGE GOSNELL: Is it the same position for all the Defence
10 teams? If not, perhaps you could just intervene and say otherwise.

11 MR. EDWARDS: Well, Your Honour, yes, that is our position. My
12 learned friend for the SPO didn't mention it a moment ago, we too
13 have made a request for additional documentation arising out of the
14 expert report. I think it's nine or ten further documents that I
15 didn't copy Your Honour in on. But depending on the outcome of that
16 request for additional evidence, that may inform our
17 cross-examination estimate. But for now, we will cross-examine him,
18 we just don't know at this stage for how long.

19 MR. YOUNG: Your Honour, may I say on behalf of Mr. Fazliu that
20 it's very unlikely that we'll have any questions of Witness 8, but if
21 I may, may we reserve our position. Thank you.

22 JUDGE GOSNELL: Mr. Admiraal.

23 MR. ADMIRAAAL: Same as before.

24 JUDGE GOSNELL: When you say "same as before," you mean the same
25 position as in respect of Witness 7 --

1 MR. ADMIRAAL: Yeah, sorry.

2 JUDGE GOSNELL: -- or the same position as Mr. Young just
3 expressed?

4 MR. ADMIRAAL: No, as Witness 7. Thank you.

5 JUDGE GOSNELL: Thank you.

6 MR. HAFETZ: Your Honour, if I may, just one moment on this
7 topic.

8 JUDGE GOSNELL: Yes, please.

9 MR. HAFETZ: And I thank Mr. Edwards for raising that.

10 We did yesterday receive the 102(3) request he's referring to,
11 and we will review that and deal with it in due course. So I thank
12 you for that.

13 I think this may be -- I don't want to sidetrack Your Honour,
14 but I do think, since we're talking about Rule 149 and the expert, as
15 I understand it, the Defence -- from some of the filings, one or more
16 of the Defence teams may call their own expert, and it may relate to
17 this same topic, right, the printing and computer materials. If that
18 is the case, pursuant to 149, we would just ask Your Honour to set a
19 reasonable date at which, upon receipt of the Defence, when they get
20 their own expert report, if they do, or reports, that those are
21 disclosed timely. This is not something that can be just disclosed,
22 like, two days before the expert comes. We would need to interrogate
23 that.

24 JUDGE GOSNELL: Are you suggesting that those reports should be
25 forthcoming before the appearance of your witness?

1 MR. HAFETZ: I'm not necessarily suggesting that at all. I'm
2 just suggesting that if there are -- there is no date right now
3 floating out, and we don't know how many reports there are going to
4 be.

5 JUDGE GOSNELL: Thank you.

6 And then that's not the end of the potential Prosecution
7 witnesses, because there is a motion -- or at least a request in the
8 Smakaj pre-trial brief that the Prosecution be obliged to call a
9 particular witness.

10 So without, at this point, going into the merits or litigating
11 the matter here, I, first of all, just wanted to canvass, please, the
12 Prosecution's position on that request.

13 MR. HAFETZ: Your Honour, our position is, based on the case, we
14 are in no way obligated to call that witness, and we don't intend to
15 at this time.

16 JUDGE GOSNELL: And, Mr. Rees, again, without litigating the
17 matter here in this Status Conference, what's your position in
18 respect of what the Prosecutor has just said?

19 MR. REES: [via videolink] Well, that's the first time that
20 Mr. Hafetz, on behalf of the Prosecution, has indicated that firm
21 position. I'm grateful for that matter to be clarified by them. We
22 will reflect on it and bring whatever motions and applications we
23 thereafter think are appropriate.

24 JUDGE GOSNELL: Thank you, Mr. Rees.

25 So now I'd like to turn to, really, the very significant

1 variable in respect of the start of trial in this case, which is the
2 matter of ongoing SPO investigations. And I have a number of
3 questions that I would like to direct to the Prosecution in the first
4 instance. And after we've gone through those questions, I will ask
5 the Defence to comment globally on the responses that have been
6 forthcoming from the Prosecution.

7 Now, I note that in Prosecution filing 559, the SPO's position
8 is that trial cannot start until, and here I quote from paragraph 3,
9 "the limited remaining investigative steps have been completed." And
10 also at paragraph 3, you estimate that that could be -- that trial
11 could commence at the beginning of February 2026. But I also note
12 that your estimates as to when investigations may be complete, and
13 here I quote from paragraph 7 of your filing, "depend[s] on when the
14 SPO receives the material from" a particular external service
15 provider, and that there may even then be "additional investigative
16 follow-up." You then refer to an investigative step at paragraph 20
17 that will "begin in January 2026." And we know from other documents
18 provided by the Registry that the external provider has informed us
19 that the delivery date can only be confirmed once the work begins in
20 January 2026.

21 So I want to make sure I understand the nature of your
22 submission that trial could commence at the beginning of February.
23 Are you saying, Mr. Hafetz, that you're ready to go to trial at the
24 beginning of February come what may, or are you saying that it
25 depends on the state of investigations as they may be at the

1 beginning of February?

2 MR. HAFETZ: Thank you, Your Honour. And let me just first
3 answer the question you asked before. That is, Your Honour correctly
4 cited the ERN, and the date of that report is 14 December 2023. So
5 that is my mistake. But you had the ERN exactly correct.

6 Your Honour, the answer to your question is the latter
7 formulation. It depends a bit on the final outcome and resolution of
8 these pending steps, two of which were just, I believe, ordered in
9 the last -- and resolved in the last two days. I'm happy to speak to
10 why those are so essential. But what is clear is nearly -- other
11 than one request for a further clarification that's pending regarding
12 a small amount of metadata, which I don't think is going to take very
13 long, and that was already ordered, it's just a further -- we've
14 opined that there needs to be a bit more information provided by an
15 external party. Other than that, all of the investigative actions
16 that we foresee, and I'll caveat that just with one caveat, are
17 underway and due to be finished, from what we can tell from what the
18 outside parties are doing, by, it seems, no later than mid-January.

19 Now, many -- or some of the materials come in not English and
20 need to be translated and then need to be analysed, and they need to
21 be assessed for relevance and disclosed as soon as possible to all
22 the parties so they can then review them. And then we can formulate
23 any request to add any of that material to our exhibit list, which
24 is, obviously, contemplated by us continuing to go do it.

25 This is not some open-ended and endless investigation. It's

1 quite targeted to the specific things that we've asked for,
2 requested, and have been primarily granted, all within the confines
3 of this case, not some other investigation.

4 I'll also note that the SPO has severely, at this point,
5 narrowed the investigation to focus only on the most relevant
6 evidence that appears to be in the records we're looking for.

7 I'll also note, because I do think it's relevant to
8 Your Honour's question, I thank you for letting me have the floor,
9 the delay that we're talking about in getting this is necessarily
10 triggered by the fact that the two systems we're looking into are
11 both, by definition, containing potentially privileged information
12 and require an outside counsel to review it. This would have gone
13 much faster if we were able to review them ourselves, but that's not
14 what was ordered, not what was contemplated, and, in this case, it's
15 appropriate that it's happening this way. But that is the course of
16 the delay.

17 So we do -- to answer your question, we do expect these steps to
18 be finished by 16 -- middle of January. It's possible, it's
19 possible, and we've said this, that one of the steps, in particular,
20 may require a very brief targeted follow-up, and it really depends on
21 the outcome of that. I'm happy to speak about that in private
22 session because it's directly relevant to the case.

23 But in terms of the trial start date, I just want to -- because
24 I think that's where Your Honour is headed. Since our submissions,
25 and in light of the Defence submissions, in light of the orders that

1 have been forthcoming since then, it's pretty clear to me that we'll
2 have that material by mid-January, be able to have requested any
3 follow-up by then or before, because we're expecting some material
4 next week. As we forecast, we may be able to narrow some of the
5 existing requests and reduce some of the work of the outside party.
6 And I think in terms of an actual trial date, what makes most sense,
7 based on the submissions of all the parties, to be able to complete
8 these steps, understand what the evidence is in the case, and
9 understand and get a ruling on Your Honour's views on the admission
10 of the non-testimonial evidence, that the date that we would suggest
11 would be in mid-or late February, understanding that the Thaci
12 Defence wants to start March 2nd. We understand that.

13 But there are quite a bit of moving parts here, not all the
14 investigation, and that to us makes the most sense, but would, to
15 Your Honour's question, allow us to complete these necessary steps
16 and have all of the evidence in front of the Court.

17 JUDGE GOSNELL: The concern that I have, Mr. Hafetz, is that
18 these investigations, as you've just alluded to, are not within the
19 control, to a certain extent, of the KSC itself. And as you're well
20 aware, perhaps more aware than anyone, there have been delays and
21 underestimates as to how long certain steps could be -- how quickly
22 they could be completed. And even in your filing 420, at that time
23 you submitted that 14 November 2025 was an appropriate time for
24 transmission of the case to the trial stage.

25 And as you know from the rules, that would, broadly speaking,

1 imply commencing trial within 60 days, which would have implied a
2 trial start date of mid-January. So that was your submission just on
3 25 August 2025, and evidently even since that time there has been
4 sufficient slippage that now you've pushed back your readiness for
5 trial date by three weeks.

6 So what gives you confidence that there will be any less
7 slippage in respect of the ongoing investigative steps right now?

8 MR. HAFETZ: Thank you, Your Honour. And for this, I actually
9 would request that we move into private session so I can speak with
10 just a little bit more detail about the steps.

11 JUDGE GOSNELL: Yes, let's do that, please.

12 MR. HAFETZ: Thank you.

13 JUDGE GOSNELL: Court Officer, could we move into private
14 session.

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Trial Preparation Conference (Private Session)

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24 [Open session]

25 THE COURT OFFICER: Your Honours, we're in public session now.

1 JUDGE GOSNELL: Now, it's clear from the pre-trial Defence
2 briefs that translation is going to be -- and potentially
3 transcription, is going to be an issue of relevance in this case. I
4 note there's a Registry instruction on requesting translation,
5 interpretation, and verification services. That's dated 30 May 2019.
6 It's KSC-BD-14.

7 I draw that facility to your attention because it's evident that
8 the parties may well need to avail themselves of those services, and
9 I would strongly encourage that that be done at the earliest possible
10 moment in time. And, of course, that any such requests be, to the
11 extent possible, limited so that they can be accomplished in a timely
12 manner. And if there are any issues in respect of translation
13 corrections or verifications, they should be brought to the Chamber's
14 attention as quickly as possible.

15 I note that the Smakaj Defence has indicated that neither lead
16 nor co-counsel are available between 27 March and June 2026. I just
17 want to indicate at this point that we will be having discussions at
18 an early stage about the scheduling of the Defence case. Of course,
19 the opening of the Prosecution case comes first. But whenever that
20 happens, soon thereafter there will also be discussions, and this is,
21 of course, without prejudice to any determinations concerning
22 dismissal of charges under Rule 130, but there will be early
23 discussions about when the Defence case could be heard. And so
24 perhaps what I'm about to say is unnecessary and will be moot, but I
25 may -- I have to say, Mr. Bowden, that it could be that the Chamber

1 is not going to be in a position to adjourn for a period of more than
2 two months.

3 MR. BOWDEN: Your Honour, yes. Clearly matters at the moment
4 are somewhat theoretical as we don't know the dates. Those are
5 existing professional commitments, but existing professional
6 commitments can be altered of course. At the moment, they are fixed
7 professional commitments, but clearly, both Mr. Rees and myself will
8 have to review that, bearing in mind the timetable that Your Honour
9 feels is appropriate.

10 JUDGE GOSNELL: Thank you for that. And I do understand the
11 position that you may be in. But just to say that that's yet a
12 further reason to have the earliest possible discussions that we can,
13 not premature but as early as possible, in terms of the scheduling of
14 the Defence case, and we will do that.

15 We have about seven minutes before the break. And before we do,
16 I have completed the matters on which I want to ask the parties. And
17 I have not asked Defence any questions, and I've taken note of their
18 submissions concerning the timing of certain matters in which they
19 are required to make submissions, and that's the reason why, not
20 because I'm not interested, but because for the most part, it's
21 premature at this stage.

22 But nonetheless, are there any issues that any of the parties
23 would now wish to raise?

24 MS. MENEGON: Thank you, Your Honour. I understand you are
25 talking about calendar. So I just wanted to inform you that in

1 Case 06, the Panel further added two dates for closing arguments on
2 the 16th and 18th of February, so our team won't be available this
3 week. Thank you.

4 MR. EDWARDS: Your Honour, we've said in our submissions that
5 both co-counsel and myself are unavailable for the week of the 16th
6 to 20th OF February of next year. We have commitments of our own
7 during that week.

8 MR. YOUNG: Your Honour, nothing to add, save that, broadly, the
9 Fazliu team will be supporting the submissions in terms of timeline
10 of Mr. Thaci. Thank you.

11 MR. ADMIRAAL: Nothing to add. Thank you.

12 JUDGE GOSNELL: Does the Prosecution have anything further it
13 wishes to raise?

14 MR. HAFETZ: Just one matter, Your Honour. You opened the
15 conference with the observation on the scheduling of the Prosecution
16 preparation conference, and I'm just wondering how that interacts
17 with Rule 118(3) in terms of the -- not affecting the start of the
18 case. It's likely my own ignorance.

19 JUDGE GOSNELL: Well, Mr. Hafetz, I don't propose to issue a
20 ruling right at this moment, but it's my understanding that there is
21 a discretion conferred on the Single Trial Judge to vary deadlines.
22 So, accordingly, if we do treat the current hearing as a Rule 118
23 hearing, in accordance with the discretion and the authority to
24 extend deadlines, it would not mean the trial would necessarily have
25 to start within 30 days. I assume that that's what you're getting

1 at.

2 MR. HAFETZ: It is, Judge.

3 JUDGE GOSNELL: Yes. Again, there is an authority to vary
4 deadlines. And, accordingly, if your request for reconsideration is
5 not granted, you can be assured that if the Single Judge comes to the
6 view that the trial shouldn't start until after 30 days, that that
7 authority will be exercised.

8 MR. HAFETZ: Understood, Judge. Thank you.

9 JUDGE GOSNELL: I understand that Mr. Thaci wanted to make an
10 intervention, Ms. Menegon.

11 MS. MENEGON: Yes, he had a short observation to make. Thank
12 you.

13 THE ACCUSED THACI: [via videolink] [Interpretation] Thank you,
14 Your Honour. Good morning to everyone. I welcome this hearing being
15 held today, and for that reason, I am participating in it because I'm
16 determined and committed to respect the rule of law.

17 However, Your Honour, it is of interest that in this Court it is
18 very -- that things that are not permitted to happen in your
19 respective countries are not permitted to happen in this Court
20 either. Like any people, we Albanians have our history, our
21 traditions, and our national values and state values. I think that
22 the scheduling of this hearing precisely on this day, on 28 November,
23 should have been avoided.

24 Having this hearing today, on 28 November, is an unpleasant
25 surprise to me and to any Albanian. Your Honour, like any other

1 Albanian, every Albanian today celebrates the national state and
2 family feast occasion. It is a day of celebration of dignity and
3 national pride, which is also celebrated by any free people in the
4 world. Every Albanian citizen, every state institution today are
5 celebrating in Albania and Kosovo. Therefore, I would like to wish
6 all the Albanians to celebrate the 28th of November united, proud,
7 and with dignity. I hope we'll soon be all together. Thank you.

8 JUDGE GOSNELL: Thank you for that, Mr. Thaci. I would just
9 observe that the Chamber scheduled this hearing day after consulting
10 all the parties, and there were no objections to this day for the
11 Status Conference or for the Trial Preparation Conference.

12 The Chamber will recess for 30 minutes, and then we will return
13 and possibly issue one or two oral orders.

14 We stand adjourned.

15 --- Recess taken at 10.59 a.m.

16 --- On resuming at 11.30 a.m.

17 JUDGE GOSNELL: I omitted a procedural step at the beginning of
18 the hearing, which was to ask the courtroom officer to confirm who is
19 present at the video-conference location along with him and Mr. Kuci.

20 Is anyone else present?

21 THE COURT OFFICER: [via videolink] Thank you, Your Honour. This
22 is to confirm that at the remote location are present Mr. Kuci and
23 myself, Court Officer. Thank you, Your Honour.

24 JUDGE GOSNELL: Thank you very much.

25 The Court will not issue, at this time, a detailed Scheduling

1 Order for the start of trial, but one will follow in writing in due
2 course.

3 However, I will issue a first oral order in light of the
4 parties' written and oral submissions in respect of one scheduling
5 matter, and this is the first oral order.

6 The Prosecution is ordered to file its bar table motion, that
7 is, to tender all non-testimonial evidence to be presented as part of
8 its case other than through a witness, by 17 December 2025.

9 That is the end of the order.

10 I will now issue a second oral order.

11 The deadline for responses to SPO filing 578, given its very
12 limited scope, is varied to Monday, 1 December 2025. Replies will
13 not be entertained.

14 I'd like to thank you all for your participation in this
15 Status Conference.

16 Court is adjourned.

17 --- Whereupon the hearing adjourned at 11.32 a.m.

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