



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06
The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II
Judge Charles L. Smith III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettreux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filed by: Registrar

Date: 29 January 2024

Language: English

Classification: Confidential and *ex parte*

**Notification of Letter with Additional Information from Counsel Requesting
Early Termination**

with one confidential and *ex parte* Annex

Registry
Registrar

Counsel for Hashim Thaçi
Gregory Kehoe

1. On 19 January 2024, the Registrar notified the Trial Panel of a letter which Mr Hashim Thaçi ('Mr Thaçi') addressed to Trial Panel II and which concerned the withdrawal of Mr Gregory Kehoe ('Mr Kehoe') as his Counsel.¹
2. Subsequently, on 19 January 2024, Mr Kehoe filed before the Trial Panel a motion to withdraw as Counsel for Mr Thaçi (together with one Co-Counsel, three Legal Associates and five Support Team Members ('Nine Defence Team Members')), citing Article 23(2)(2) of the Code of Professional Conduct for Counsel² and asserting that Mr Thaçi: (i) has failed to fulfil an obligation to himself and the Nine Defence Team Members; and (ii) has been given reasonable warning that the above-mentioned persons would seek termination unless the obligation was fulfilled.³ Mr Kehoe also requested the Trial Panel to: (i) direct the Registrar to "appoint" counsel for Mr Thaçi pursuant to Section 12(1)(b) of the Directive on Counsel; and (ii) direct the Specialist Chambers to pay for the costs necessarily and reasonable incurred by himself and the Nine Defence Team Members during a transition period not exceeding 45 days from the date on which replacement counsel is assigned or appointed, pursuant to Section 16(4) of the Directive on Counsel.⁴
3. On 26 January 2024, the Registrar filed additional submissions before the Trial Panel, *inter alia* informing it that she had sought further information from Mr Kehoe, Mr Thaçi and Kosovo's Ministry to Justice with regard to Mr Kehoe's requests.⁵ The

¹ KSC-BC-2020-06, F02068, Notification from Hashim Thaçi to the Trial Panel and Request for Approval of Termination of Representation by Counsel with one confidential Annex, 19 January 2024, confidential ('Notification'), paras 1-2.

² Registry Practice Direction, Code of Professional Conduct – for Counsel and Prosecutors Before the Kosovo Specialist Chambers, KSC-BD-07-Rev1, 28 April 2021, public ('Code of Professional Conduct for Counsel').

³ KSC-BC-2020-06, F02069, Motion to Withdraw By Lead Counsel for Hashim Thaçi, 19 January 2024, public ('Motion'), paras 10, 21.

⁴ Registry Practice Direction, Directive on Counsel, KSC-BD-04-Rev1, 28 April 2021, public ('Directive on Counsel'); Motion, paras 17-19, 21.

⁵ KSC-BC-2020-06, F02079, Additional Registrar's Submissions Concerning the Termination of Representation by Counsel and Other Defence Team Members with three confidential and ex parte Annexes, 26 January 2024, confidential ('Registrar's Submissions'), paras 3, 8, 16.

Registrar also undertook to share Mr Kehoe's response with the Trial Panel as soon as this was received.⁶

4. The Registrar hereby informs the Trial Panel that, on 29 January 2024, she received a response letter from Mr Kehoe.⁷ In it, the latter: (i) confirms that the contract between Mr Thaçi and the ten withdrawing persons ended on 31 December 2023 and that neither them nor Mr Thaçi wish to continue their professional relationship; (ii) clarifies that the Government of Kosovo does not pay for the services of the ten withdrawing persons; (iii) explains that the reason for the requested early termination of himself as Counsel and of the Nine Defence Team Members is that Mr Thaçi has failed, since November 2022, to fully fulfil his financial obligations towards the above-mentioned persons, resulting in a "significant unpaid balance"; (iv) clarifies that he takes no position on whether Counsel should be appointed *or* assigned to Mr Thaçi; and (v) states that, although the Registrar may instruct Counsel "to undertake a period of transitional work", Counsel does not think it is necessary given the size and competency of Mr Thaçi's remaining team.

5. The Registrar recalls that, pursuant to Section 16(1) of the Directive on Counsel,⁸ "[w]hen considering early termination [...] of representation pursuant to this Section, the Registrar shall have due regard to the importance of continuity of representation and must obtain the approval of any Panel seized of the matter in which Counsel is acting." Moreover, pursuant to Section 16(2)(b) of the Directive on Counsel, "[t]he Registrar shall terminate representation by Counsel in circumstances where: [...] Counsel [or] the Accused [...] request withdrawal showing good cause, including where the fiduciary relationship between Counsel and his or her client has failed".

6. In light of Mr Kehoe's motion of 19 January 2024 and letter of 29 January 2024, the Registrar is satisfied that good cause for the requested early termination has been

⁶ Registrar's Submissions, para. 3.

⁷ Annex 1, confidential and *ex parte*.

⁸ Registry Practice Direction, Directive on Counsel, KSC-BD-04-Rev1, 28 April 2021, public ('Directive on Counsel').

shown, within the meaning of Section 16(2)(b) of the Directive on Counsel. The Registrar therefore requests the Trial Panel's approval of the above-mentioned early termination of representation. In this regard, the Registrar recalls her submission that:

should the withdrawal of Counsel and the Nine Defence Team Members proceed as Mr Kehoe describes, Mr Thaçi's Defence team would still consist, at the date of this filing, of 26 persons, including six Co-Counsel and five Consultants, who all have several years of experience in the case at hand. In addition, the majority of them have over or well over a decade of experience in (international) criminal litigation, and the six Co-Counsel and one of the Consultants are duly admitted to the List of Counsel and may be assigned or appointed as Counsel for Mr Thaçi.⁹

The Registrar further recalls Mr Kehoe's opinion that, given the size and competency of Mr Thaçi's remaining team, a period of transitional work by outgoing Counsel would not be necessary. In addition, in his letter of 19 January 2024, Mr Thaçi indicated that the remainder of his team will continue to represent him.¹⁰

7. Finally, the Registrar notes that it has yet to receive a response from Mr Thaçi to enquiries regarding his request for replacement counsel, or further communications from Mr Thaçi's Co-Counsel, Mr Luka Mišetić ('Mr Mišetić'), concerning the ongoing discussions about Mr Thaçi requesting that Mr Mišetić succeed Mr Kehoe as Counsel.¹¹ Consequently, the Registrar requests the Trial Panel to seek confirmation from Mr Thaçi and Mr Mišetić about Mr Thaçi's representation by Counsel going forward.

⁹ Registrar's Submissions, para. 5.

¹⁰ KSC-BC-2020-06, F02068, Notification from Hashim Thaçi to the Trial Panel and Request for Approval of Termination of Representation by Counsel with one confidential Annex, 19 January 2024, confidential, para. 2.

¹¹ Registrar's Submissions, paras 7-8.

8. Pursuant to Rule 82(3) of the Rules,¹² the Registrar submits that this filing and its Annex are classified as confidential and *ex parte* because they contain information on the professional relationship between Mr Thaçi and his legal representatives.

Word count: 1075



Dr Fidelma Donlon

Registrar

Monday, 29 January 2024

At The Hague, the Netherlands

¹² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BC-03/Rev3, 2 June 2020, public ('Rules').