



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** **KSC-BC-2023-12**

**The Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj,  
Isni Kilaj, Fadil Fazliu and Hajredin Kuçi**

**Before:** **Pre-Trial Judge**

Judge Marjorie Masselot

**Registrar:** Fidelma Donlon

**Date:** 6 December 2024

**Language:** English

**Classification:** **Public**

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**Decision Setting the Date for Initial Appearances and Related Matters**

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**Specialist Prosecutor**  
Kimberly P. West

**(Duty) Counsel for Hashim Thaçi**  
**Duty Counsel for Bashkim Smakaj**  
**Counsel for Isni Kilaj**  
**Duty Counsel for Fadil Fazliu**  
**Duty Counsel for Hajredin Kuçi**

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Articles 20, 21(2), and 39(4) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 8(3)(a), 87(6), 92(1) and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. Between 15 December 2023 and 12 November 2024, the Specialist Prosecutor's Office ("SPO") submitted before the Pre-Trial Judge for confirmation indictments against Hashim Thaçi ("Mr Thaçi"), Bashkim Smakaj ("Mr Smakaj"), Isni Kilaj ("Mr Kilaj"), Fadil Fazliu ("Mr Fazliu"), and Hajredin Kuçi ("Mr Kuçi").<sup>2</sup>

2. On 29 November 2024, the Pre-Trial Judge issued a decision (partly) confirming the charges against Messrs Thaçi, Smakaj, Kilaj, Fazliu, and Kuçi, for offences under Article 15(2) of the Law.<sup>3</sup> On the same day, the Pre-Trial Judge also issued arrest warrants for Messrs Thaçi, Smakaj, Kilaj and Fazliu and a summons to appear on Mr Kuçi.<sup>4</sup> In respect of the latter, the Pre-Trial Judge ordered him to appear before the Specialist Chambers ("SC") on Monday, 9 December 2024, at 10:00.<sup>5</sup>

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<sup>1</sup> KSC-BC-2023-12, F00015, President, *Decision Assigning a Pre-Trial Judge*, 6 June 2024, confidential.

<sup>2</sup> KSC-BC-2023-12, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation and Related Request*, 15 December 2023, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*; F00007, Specialist Prosecutor, *Submission of Revised Indictment for Confirmation*, 11 March 2024, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*; F00017, Specialist Prosecutor, *Submission of Amended Indictment for Confirmation*, 28 June 2024, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*; F00028, Specialist Prosecutor, *Submission of Further Amended Indictment for Confirmation*, 12 November 2024, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

<sup>3</sup> KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, strictly confidential and *ex parte*.

<sup>4</sup> KSC-BC-2023-12, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters* ("Decision on Arrest and Summons"), 29 November 2024, strictly confidential and *ex parte*, with Annexes 1-8, strictly confidential and *ex parte*.

<sup>5</sup> Annex 5 to Decision on Arrest and Summons.

3. On 2 December 2024, the SPO filed the indictment as confirmed (“Confirmed Indictment”).<sup>6</sup>

4. On 5 December 2024, Messrs Smakaj, Kilaj and Fazliu were arrested by the SPO in Kosovo.<sup>7</sup> On the same day, the SPO served the summons to appear on Mr Kuçi.<sup>8</sup> Later that day, the Registrar served the arrest warrant on Mr Thaçi in the Detention Facilities of the Specialist Chambers in The Hague, the Netherlands (“SC Detention Facilities”).<sup>9</sup> Together with the arrest warrants and the summons, the Accused were all served also with the Confirmed Indictment.<sup>10</sup>

5. On 6 December 2024, as ordered by the Pre-Trial Judge, Messrs Smakaj, Kilaj and Fazliu, were transferred to the SC Detention Facilities.<sup>11</sup>

## II. APPLICABLE LAW

### A. INITIAL APPEARANCES AND REVIEW OF ARREST/DETENTION

6. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the SC, be taken into custody, immediately informed of the charges against him or her and transferred to the SC. If no arrest warrant has been issued and if at liberty, the

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<sup>6</sup> KSC-BC-2023-12, F00040, Specialist Prosecutor, *Submission of Confirmed Indictment*, 2 December 2024, strictly confidential, with Annex 1, strictly confidential.

<sup>7</sup> KSC-BC-2023-12, F00042, Registrar, *Notification of Arrest of Bashkim Smakaj Pursuant to Rule 55(4)*, 5 December 2024, strictly confidential and *ex parte*; F00043, Registrar, *Notification of Arrest of Isni Kilaj Pursuant to Rule 55(4)*, 5 December 2024, strictly confidential and *ex parte*; F00045, Registrar, *Notification of Arrest of Fadil Fazliu Pursuant to Rule 55(4)*, 5 December 2024, strictly confidential and *ex parte*.

<sup>8</sup> KSC-BC-2023-12, F00046, Registrar, *Notification of Service of Summons to Appear on Hajredin Kuçi*, 5 December 2024, strictly confidential and *ex parte*.

<sup>9</sup> KSC-BC-2023-12, F00048, Registrar, *Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55(4)*, 5 December 2024, strictly confidential and *ex parte*.

<sup>10</sup> See Decision on Arrest and Summons, paras 106-108.

<sup>11</sup> See Decision on Arrest and Summons, para. 111.

accused shall be summonsed to appear in person or by video-link at an initial hearing before the SC.

7. Pursuant to Rules 87(6) and 92(1) of the Rules, the accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance. The initial appearance pursuant to Rule 92 of the Rules shall take place within seven (7) days of the service of the indictment upon the accused.

8. Pursuant to Articles 21(2) and 39(6) of the Law, hearings – including the hearing on the initial appearance of the accused – shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

9. Pursuant to Article 41(5) of the Law and Rule 55(6) of the Rules, a person deprived of liberty by or on behalf of the SC shall be transferred by way of travel specified in an order to the SC and brought before a SC Judge without delay and shall be entitled to a trial within a reasonable time or to release pending trial.

#### B. WORKING LANGUAGES

10. Pursuant to Article 20 of the Law, the official languages of the SC and the SPO are Albanian, Serbian and English. In any given proceedings, a Panel may decide the working languages for those proceedings, as appropriate and with full respect of the rights of the accused, as stipulated under Article 21 of the Law.

11. Pursuant to Rule 8(3)(a) of the Rules, subject to Article 20 of the Law, as early in the proceedings as possible, the Panel, after hearing the Parties and, where applicable, Victims' Counsel, shall decide which working language(s) shall be used in the proceedings.

#### C. STATUS CONFERENCE

12. Pursuant to Rule 96(1) of the Rules, the Pre-Trial Judge shall convene a status conference as soon as possible after the initial appearance of the accused in

order to: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties and, where applicable, Victims' Counsel the opportunity to raise issues in relation thereto.

13. Pursuant to Rule 96(2) of the Rules, a status conference may be conducted: (i) in the presence of the accused, with his or her Counsel participating via video-conference; (ii) in the presence of Counsel, with the accused participating via video-conference; or (iii) in the absence of the accused, with Counsel present or participating via video-conference.

### III. DISCUSSION

#### A. INITIAL APPEARANCES

14. Considering that: (i) the arrest warrant, together with the Confirmed Indictment, was served on Mr Thaçi in the SC Detention Facilities on 5 December 2024; and (ii) Messrs Smakaj, Kilaj and Fazliu were arrested on 5 December 2024 and transferred to the SC Detention Facilities on 6 December 2024, the Pre-Trial Judge finds it appropriate, in light of the right of an arrested person to be brought before a judge without undue delay, to set the date for the accused's initial appearances on **Sunday, 8 December 2024**. Mr Thaçi's initial appearance shall start at **09:30 hours**. The respective initial appearances of Messrs Smakaj, Fazliu and Kilaj will take place thereafter, in this order, with a half-hour break in between. Therefore, in respect of Messrs Smakaj, Fazliu and Kilaj, the Parties should be available as of **10:30 hours** and stand ready to proceed.

15. The Registrar shall make all necessary arrangements to ensure the transfer and transport of the accused from the SC Detention Facilities to the premises of the SC in

accordance with the afore-set schedule and mindful of the Pre-Trial Judge's directions in paragraph 108 of the "Decision on Request for Arrest Warrants and Related Matters".

16. In respect of Mr Kuçi, it is recalled that his initial appearance will take place on **Monday, 9 December 2024, at 10:00.**<sup>12</sup>

17. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of each hearing on the initial appearance.

#### B. WORKING LANGUAGES

18. In conformity with the rights of the accused under Article 21 of the Law, it is necessary to determine the working language in the present proceedings in order to ensure their fair, efficient and expeditious conduct. Towards this end, the Pre-Trial Judge orders the Parties to provide their observations, orally, on the working language of the proceedings at each initial appearance.

19. The Pre-Trial Judge notes that, to date, the working language of the proceedings has been English, as all filings by the SPO and the Registrar, and all decisions and orders of the Pre-Trial Judge have been issued in English. After receiving the Parties' observations, the Pre-Trial Judge will determine whether there are compelling reasons to depart from the use of English as the working language.

20. The Pre-Trial Judge emphasises that the determination of the working language of the proceedings leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the accused.<sup>13</sup>

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<sup>12</sup> Annex 5 to Decision on Arrest and Summons.

<sup>13</sup> Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.

## C. DATE OF STATUS CONFERENCE

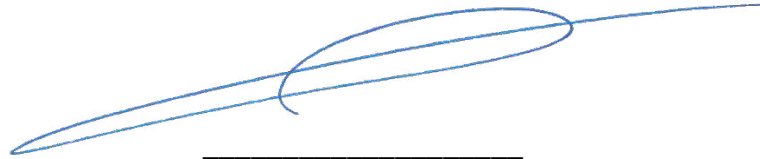
21. The Pre-Trial Judge informs the Parties that she intends to schedule a status conference on **Tuesday, 17 December 2024, at 14:00 hours**. An order setting the date and the agenda of said status conference will be issued in due course after the initial appearances of the accused. The Defence is invited to provide oral submissions at the initial appearance on whether Counsel and/or the accused intend to participate in the status conference in person or via video-conference as prescribed by Rule 96(2) of the Rules.

## IV. DISPOSITION

22. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- (a) **DECIDES** to convene the hearing on the initial appearance of Messrs Thaçi, Smakaj, Fazliu and Kilaj on **Sunday, 8 December 2024**, as set out in paragraph 14 above;
- (b) **DIRECTS** the Registrar to make all necessary arrangements to ensure the transfer and transport of the accused from the SC Detention Facilities to the premises of the SC in accordance with paragraph 15 above;
- (c) **RECALLS** that the hearing on the initial appearance of Mr Kuçi will take place on **Monday, 9 December 2024, at 10:00 hours**;
- (d) **AUTHORISES** the Registrar to organise, at the start of each hearing on the initial appearance, the taking of photographs for one minute and a half;
- (e) **ORDERS** the Parties to provide, at each hearing on the initial appearance, their oral submissions as to the working language to be adopted in the present proceedings, as set out in paragraph 19 above; and

(f) **INFORMS** the Parties that a status conference will be held on **Tuesday, 17 December 2024, at 14:00 hours**, as set out in paragraph 21 above.



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**Judge Marjorie Masselot**  
**Pre-Trial Judge**

Dated this Friday, 6 December 2024

At The Hague, the Netherlands.