



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
Specialist 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 Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

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Classification: Public

Public redacted version 'Prosecution response to third urgent THAÇI release request'

Specialist Prosecutor's Office

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I. INTRODUCTION

1. The Specialist Prosecutor's Office ('SPO') hereby responds to the Urgent Release Request.¹ On the basis of the information provided, and having regard to Thaçi's demonstrated elevated risk of obstruction, the SPO opposes Thaçi's third request for compassionate release.

II. SUBMISSIONS

2. Rule 56(3)² is a 'temporary release of a detained person, where compelling humanitarian grounds justify such release'. However, temporary release on compelling humanitarian grounds is exceptional,³ and there is no unconditional right to such release.⁴ Even family tragedies may not be sufficient, in and of themselves, to justify it.⁵

3. Specifically, humanitarian release must be weighed, in the particular circumstances of the case, against factors including the gravity of the offenses of which the Accused is charged and the risks previously identified by the Panel. Additional relevant factors include the stage of proceedings, the Accused's character, and matters relating to the alleged humanitarian circumstances.⁶

4. In this instance, the Panel has not only found that the risks of Thaçi obstructing the proceedings and committing further crimes can only effectively be managed at the

¹ Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds, KSC-BC-2020-06/F02870, 28 January 2025, Confidential and *Ex Parte* ('Urgent Release Request').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules.

³ See e.g. Public Redacted Version of Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, KSC-BC-2020-06/F00271/RED, 30 April 2021, para.13.

⁴ Public Redacted Version of Decision on Urgent Thaçi Defence Second Request for Temporary Release on Compassionate Grounds, KSC-BC-2020-06/F01757/RED, 1 September 2023 ('Second Decision'), para.18.

⁵ See ICC, *Prosecutor v. Al Hassan*, Public redacted version of 'Decision on the urgent Defence request for a custodial visit on compassionate grounds', ICC-01/12-01/18-1227-Red, 23 December 2020 (redacted version notified 18 January 2020), paras 8, 14 (in the circumstances of the case, death of an accused's young daughter was found insufficient to justify even temporary release).

⁶ Second Decision, KSC-BC-2020-06/F01757/RED, para.18.

Detention Centre,⁷ but that Thaçi has provided unprivileged visitors with confidential information and passed instructions to such persons regarding the form and content of upcoming witness testimony.⁸ As a result, this Panel concluded that the standard conditions of detention were insufficient to mitigate the risk of Thaçi engaging in conduct that could interfere with the proceedings and/or present a risk to the safety and security of witnesses.⁹ To address these risks, the Panel ordered significant modifications to detention conditions.¹⁰ Since then, a Pre-Trial Judge has also confirmed multiple charges against Thaçi for such unlawful conduct. As such, Thaçi presents an extraordinarily high risk of obstruction and interference, which has already manifested.

5. Notably, and contrary to Defence submissions,¹¹ members of Thaçi's own family – including specifically [REDACTED] – have been present, and participating in conversations, on occasions when Thaçi divulged confidential information.¹² [REDACTED].¹³

6. The trial in this case is actively ongoing, [REDACTED].¹⁴ In these circumstances, where Thaçi has a demonstrated disregard for the orders of the Panel, and has sought to circumvent and exploit even the regime at the Detention Centre, any form of temporary release – even fully custodial and monitored – would create unmanageable risks to the safety and security of witnesses, and the integrity of the trial.

⁷ Decision on Periodic Review of Detention of Hashim Thaçi, KSC-BC-2020-06/F02781, 13 December 2024 ('Thaçi Detention Decision'), para.32.

⁸ Thaçi Detention Decision, KSC-BC-2020-06/F02781, para.21.

⁹ Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, KSC-BC-2020-06/F01977, 1 December 2023, ('Modification Decision'), para.41.

¹⁰ See Modification Decision, KSC-BC-2020-06/F01977, paras 51-53, 55-60, 62-78, 84(b).

¹¹ Urgent Release Request, KSC-BC-2020-06/F02870, para.18.

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

7. The SPO additionally notes that the grounds presented in support of the Urgent Release Request do not appear to be at the level of exceptionality and urgency that would justify compassionate release. In particular, it appears that while Mr Haxhi Thaçi was hospitalised earlier this month [REDACTED], he was discharged from hospital more than two weeks ago [REDACTED],¹⁵ and – other than one brief return visit to the hospital on [REDACTED] January 2025, where he appears to have been treated as an outpatient and stabilised and discharged on the same day [REDACTED]. While the Defence also makes reference to Mr Haxhi Thaçi's prior health status in 2023,¹⁶ it is noted that since then, in May 2024, both of Thaçi's parents were well enough to travel internationally to The Hague to visit the Detention Centre.¹⁷ Apart from a brief general reference to avoiding disruption to the court calendar, it is unclear why the request is being made at this time or what the purported circumstances are which justify it, noting the applicable standard of exceptionality that is required.

8. Should the Panel nonetheless be minded to grant the request, any authorised visit should be fully custodial and time-limited. All conditions attaching to prior visits should apply,¹⁸ and, specifically and/or additionally, Thaçi: (i) should not be permitted to give or receive any item; (ii) should be permitted to see only his father, mother (and if strictly necessary an accompanying, pre-identified and approved carer); and (iii) should be in the direct sight and hearing of an Albanian-speaking Registry staff member *at all times*. Absolutely no private conversation outside the hearing of a Registry staff member with appropriate linguistic skills should be permitted. The SPO, however, re-emphasises that even such measures are insufficient to adequately manage the particular risks at issue, given the possibility of making coded or other

¹⁵ Annex 1 to Urgent Release Request, KSC-BC-2020-06/F02870/A01, p.9.

¹⁶ Urgent Release Request, KSC-BC-2020-06/F02870, paras 1, 9.

¹⁷ [REDACTED].

¹⁸ Second Decision, KSC-BC-2020-06/F01757/RED, para.26.

general references which, on their face, could be extremely difficult to contemporaneously identify as problematic.


III. CLASSIFICATION

9. This filing is submitted as confidential and *ex parte* in accordance with Rule 82(4).

IV. RELIEF REQUESTED

10. For the reasons outlined above, release – in any form – is not appropriate, and the Panel should reject the Urgent Release Request.

Word count: 1187



Kimberly P. West
Specialist Prosecutor

Thursday, 30 January 2025

At The Hague, the Netherlands.