



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 Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Fidelma Donlon

**Date:** 31 January 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Thaçi Defence Third Urgent Request for  
Temporary Release on Compassionate Grounds**

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**TRIAL PANEL II** (“Panel”), pursuant to Articles 21(3), and 41 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 56(3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. Hashim Thaçi (“Mr Thaçi”) has been in detention since his surrender into the custody of the Specialist Chambers (“SC”) on 5 November 2020.<sup>1</sup>
2. On 28 January 2025, the Defence for Mr Thaçi (“Thaçi Defence”) filed an urgent request for the temporary release of Mr Thaçi on compassionate grounds (“Request”).<sup>2</sup>
3. On 30 January 2025, following an order for an expediated briefing schedule,<sup>3</sup> the Specialist Prosecutor’s Office (“SPO”) responded to, and the Registrar made submissions on, the Request (“SPO Response” and “Registrar Submissions,” respectively).<sup>4</sup>

## II. SUBMISSIONS

4. The Thaçi Defence requests that the Panel order the temporary custodial release of Mr Thaçi for three days to allow him to visit his father, Mr Haxhi Thaçi, in [REDACTED], in the presence of his mother, [REDACTED], his father’s carer, [REDACTED], his wife, [REDACTED], and his son, [REDACTED].<sup>5</sup> The Thaçi

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<sup>1</sup> F00065, Registrar, *Report on the Arrest and Transfer of Hashim Thaçi to the Detention Facilities*, 9 November 2020, confidential and *ex parte*, para. 7, with one Annex, strictly confidential and *ex parte* (a public redacted version was filed on 19 November 2020, F00065/RED).

<sup>2</sup> F02870, Specialist Counsel, *Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 28 January 2025, confidential and *ex parte*, with one Annex, confidential and *ex parte*.

<sup>3</sup> CRSPD725, *Email from Trial Panel II to Registrar, SPO and Thaçi Defence Expediating Briefing Schedule for F02870*, 29 January 2025, confidential.

<sup>4</sup> F02878, Specialist Prosecutor, *Prosecution Response to Third Urgent Thaçi Release Request*, 30 January 2025, confidential and *ex parte*; F02879, Registrar, *Registrar’s Submissions on Urgent Thaçi Defence Third Request for Temporary Release on Compassionate Grounds*, 30 January 2025, confidential and *ex parte*.

<sup>5</sup> Request, paras 3, 23.

Defence submits that Mr Thaçi's father's medical condition constitutes urgent, compelling and exceptional circumstances justifying Mr Thaçi's temporary release on humanitarian grounds.<sup>6</sup> Lastly, the Thaçi Defence notes that it has filed the Request before the Panel on the understanding that the same request will also need to be filed in front of the Pre-Trial Judge in KSC-BC-2023-12.<sup>7</sup>

5. The SPO opposes the Request, arguing that temporary release on compelling humanitarian grounds is exceptional and needs to be balanced against other factors.<sup>8</sup> In these specific circumstances, the SPO contends that the Panel should not order Mr Thaçi's temporary custodial release as: (i) the Panel has found that Mr Thaçi has provided unprivileged visitors with confidential information and passed instructions to such persons regarding the form and content of upcoming witness testimony, causing the Panel to amend Mr Thaçi's conditions of detention;<sup>9</sup> (ii) [REDACTED] has been present and participating in conversations on occasions when Mr Thaçi divulged confidential information;<sup>10</sup> (iii) the trial is ongoing and [REDACTED];<sup>11</sup> and (iv) the grounds presented in the Request do not appear to be at the level of exceptionality and urgency that would justify compassionate release.<sup>12</sup>

6. The Registrar notes that Mr Haxhi Thaçi's poor medical condition is a situation that has been ongoing since the last custodial visit on 1 September 2023 and that he is not currently hospitalised.<sup>13</sup> The Registrar outlines that there are alternative means available for Mr Thaçi to remain in close contact with his parents and other immediate family members, such as visits, telephone calls, and correspondence.<sup>14</sup>

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<sup>6</sup> Request, paras 1-2, 15-17.

<sup>7</sup> Request, para. 4.

<sup>8</sup> SPO Response, paras 1-3.

<sup>9</sup> SPO Response, para. 4.

<sup>10</sup> SPO Response, para. 5.

<sup>11</sup> SPO Response, para. 6.

<sup>12</sup> SPO Response, para. 7.

<sup>13</sup> Registrar Submissions, para. 10.

<sup>14</sup> Registrar Submissions, paras 11-12.

The Registrar suggests that, exceptionally and taking note of the circumstances in the Request:<sup>15</sup> (i) for the month of February 2025, [REDACTED];<sup>16</sup> and (ii) the Detention Management Unit can facilitate [REDACTED] additional video visits, in total, with [REDACTED], if so requested, on [REDACTED] February 2025.<sup>17</sup>

7. The Registrar further outlines the security, feasibility and operational requirements necessary to comply with the Request.<sup>18</sup> Based upon its assessment, the Registrar submits that, should custodial release be granted, it is necessary: (i) to limit Mr Thaçi's visit to one day;<sup>19</sup> (ii) to limit the custodial visit to a single time-limited visit to the [REDACTED] to meet with his father, one pre-identified immediate family member, and his father's carer only;<sup>20</sup> and (iii) that a condition of secrecy be maintained.<sup>21</sup>

### III. APPLICABLE LAW

8. Pursuant to Rule 56(3) of the Rules, upon request by a detained person, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release.

### IV. DISCUSSION

9. The Panel notes that there is no unconditional right to temporary release on compelling humanitarian grounds.<sup>22</sup> A decision whether to release a person on such grounds is subject to the discretion of the Panel, and must account for all

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<sup>15</sup> Registrar Submissions, para. 18.

<sup>16</sup> Registrar Submissions, para. 14.

<sup>17</sup> Registrar Submissions, para. 15.

<sup>18</sup> Registrar Submissions, paras 19-25.

<sup>19</sup> Registrar Submissions, paras 26-27.

<sup>20</sup> Registrar Submissions, para. 28.

<sup>21</sup> Registrar Submissions, paras 22, 29, 36.

<sup>22</sup> See ECtHR, *Lind v. Russia*, no. 25664/05, [Judgment](#) ("*Lind v. Russia*"), 6 December 2007, para. 94. See also KSC-BC-2020-07, F00604/RED, Trial Panel II, *Public Redacted Version of the Decision on Gucati Defence Request for Temporary Release on Compassionate Grounds* ("*Gucati Decision*"), 9 May 2022, para. 11.

relevant circumstances and factors.<sup>23</sup> What these factors are, as well as the weight to be accorded to them depends upon the particular circumstances of the case. Accordingly, the stage of the proceedings, the nature of the criminal offence, the Accused's character, the gravity of the relative's illness, the degree of kinship, the possibility of escorted leave and other circumstances informing the alleged humanitarian grounds are among the factors that could be relevant for consideration.<sup>24</sup>

10. The Panel further notes that visiting a close relative in critical condition has been accepted, under certain conditions, as a compelling humanitarian ground warranting temporary release.<sup>25</sup>

11. Mr Thaçi is charged with six counts of crimes against humanity involving allegations of murder, enforced disappearance of persons, persecution, imprisonment, torture, and other inhumane acts.<sup>26</sup> Mr Thaçi is also charged with four counts of war crimes of murder, torture, cruel treatment, and illegal or

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<sup>23</sup> See Gucati Decision, para. 11. See also ICTY, *Prosecutor v. Popović et al.*, IT-05-88-AR65.4, IT-05-88-AR65.5 and IT-05-88-AR65.6, Appeals Chamber, [Decision on Consolidated Appeal Against Decision on Borovčanin's Motion for a Custodial Visit and Decisions on Goero's and Miletić's Motions for Provisional Release During the Break in the Proceedings](#), 15 May 2008, para. 6.

<sup>24</sup> See Gucati Decision, para. 11. See also ECtHR, [Lind v. Russia](#), para. 95. See also F00640/RED, Pre-Trial Judge, *Public Redacted Version of Third Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 8 January 2022, para. 20; KSC-CA-2022-01/F00020/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Gucati's Third Request for Temporary Release on Compassionate Grounds*, 30 June 2022, para. 11; KSC-CA-2022-01/F00043/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Gucati's Fourth Request for Temporary Release on Compassionate Grounds*, 22 September 2022, para. 16.

<sup>25</sup> Gucati Decision, para. 12; KSC-BC-2020-07, F00618/RED, Trial Panel II, *Public Redacted Version of Decision on Second Gucati Defence Request for Temporary Release on Compassionate Grounds*, 27 May 2022, para. 17;. Similarly, ICTY, *Prosecutor v. Popović et al.*, IT-05-88-T, Trial Chamber, [Decision on Pandurević's Motion for Provisional Release](#), 21 July 2008, para. 22; *Prosecutor v. Strugar*, IT-01-42-A, Appeals Chamber, [Decision on the Renewed Defence Request Seeking Provisional Release on Compassionate Grounds](#), 15 April 2008, paras 10-11; *Prosecutor v. Sainović et al.*, IT-05-87-A, Appeals Chamber, [Public Redacted Version of the Decision on Sreten Lukić's Second Motion for Provisional Release on Compassionate Grounds](#), 14 July 2010, paras 11, 13.

<sup>26</sup> F01323, Specialist Prosecutor, *Annex 1 to Prosecution further Submissions Pursuant to Decision F01229 ("Indictment")*, 27 February 2023, para. 177.

arbitrary arrest and detention.<sup>27</sup> His continued detention has been found to be necessary.<sup>28</sup>

12. The Panel is not convinced that the current medical condition of Mr Haxhi Thaçi constitutes compelling considerations within the meaning of Rule 56(3). Specifically, the Panel notes that, while Mr Haxhi Thaçi was hospitalised from [REDACTED] January 2025 and readmitted through the Emergency Department on [REDACTED] January 2025,<sup>29</sup> his condition appears to have since stabilised as he was released from the hospital. While the Thaçi Defence emphasises the recommendation in the medical report that states that Mr Haxhi Thaçi should be “[REDACTED]”,<sup>30</sup> there is no information in the Request suggesting that Mr Haxhi Thaçi has had to be re-hospitalised or otherwise indicating that his condition is degrading. The Panel notes that Mr Haxhi Thaçi is of advanced age with health concerns but,<sup>31</sup> as stated, there is no information in the Request indicating that his illness is presently serious.

13. Recalling that release on compelling humanitarian grounds has to be balanced with other relevant factors,<sup>32</sup> the Panel also takes into account: (i) the existence of a persistent climate of intimidation of witnesses and interference with criminal proceedings against former Kosovo Liberation Army members in Kosovo;<sup>33</sup> (ii) that the Panel modified Mr Thaçi’s conditions of detention as it appeared that Mr Thaçi provided unprivileged visitors with information elicited during the testimony of protected witnesses;<sup>34</sup> and (iii) that Mr Thaçi has been charged – in addition to the charges in these proceedings – with criminal offences against the

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<sup>27</sup> Indictment, para. 177.

<sup>28</sup> F02781, Panel, *Decision on Periodic Review of Detention of Hashim Thaçi* (“Detention Decision”), 13 December 2024, paras 32, 35, 37(a).

<sup>29</sup> Request, paras 1-2; Annex to the Request.

<sup>30</sup> Request, para. 15; Annex to the Request, p. 6.

<sup>31</sup> Request, paras 1, 15-17.

<sup>32</sup> *See supra*, para. 9.

<sup>33</sup> Detention Decision, para. 18.

<sup>34</sup> F01977, Panel, *Further Decision on Prosecution Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi*, 1 December 2023, paras 35, 51-53, 55-60, 62-76, 84(c).

administration of justice and public administration and criminal offences against public order for allegedly having disclosed secret information disclosed to him in this trial and, together with others, coordinated to unlawfully influence the testimony of and/or contact SPO witnesses in this case.<sup>35</sup>

14. For these reasons, the Panel finds that, on balance and in the present circumstances, the medical conditions of Mr Haxhi Thaçi does not amount to compelling humanitarian grounds justifying Mr Thaçi's temporary release for a custodial visit.

15. Finally, the Panel notes that the Registrar has outlined that there are alternative means available for Mr Thaçi to remain in close contact with his parents. Therefore, and considering the importance of contacts with close family members and in light of the medical circumstances outlined above, the Panel orders the Registrar to: (i) allow for the possibility of [REDACTED] for the month of February 2025; and (ii) facilitate [REDACTED] additional video visits, with [REDACTED] on [REDACTED] February 2025.

## V. CLASSIFICATION

16. The Panel notes that the Request, the SPO Response, and the Registry Submissions are confidential and *ex parte*. The Panel orders the Thaçi Defence, the SPO and the Registry to file public redacted versions of the Request, the SPO Response and the Registry Submissions, by no later than **Friday, 7 February 2025**.

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<sup>35</sup> KSC-BC-2023-12/F00055/A01, Specialist Prosecutor, *Annex 1 to Public Redacted Confirmed Indictment*, 2 December 2024, paras 6-8, 45.



## VI. DISPOSITION

17. For the above-mentioned reasons, the Panel hereby:

- a) **REJECTS** the Request;
- b) **ORDERS** the Registrar to: (i) allow for the possibility of [REDACTED] for the month of February 2025; and (ii) facilitate [REDACTED] additional video visits, with [REDACTED] on [REDACTED] February 2025; and
- c) **ORDERS** the Thaçi Defence, the SPO and the Registry to file public redacted versions of the Request, the SPO Response and the Registry Submissions, by no later than **Friday, 7 February 2025**.



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**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Friday, 31 January 2025

At The Hague, the Netherlands.